

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10598 of 2020**

Arising Out of PS. Case No.-943 Year-2019 Thana- KHAGARIA District- Khagaria

DHARMENDRA KUMAR @ DHARMENDRA RAM S/o Umesh Ram R/o
village- Sanhauli, P.S.- Chitragupta Nagar, District- Khagaria

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Mrityunjay Kumar, Advocate
For the Opposite Party/s : Mr.Satyadeo Singh Yadav, APP

**CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER**

2 10-06-2020 The matter has been listed today for consideration through Video Conferencing in view of the Nationwide Lockdown on account of the Covid 19 pandemic.

The learned counsels are appearing and making submissions from their residence. The Court Master and Secretary are also part of this virtual court proceedings from their homes, all with the aid of audio visual technology.

Heard learned Counsel for the petitioner and the learned APP for the State.

Petitioner apprehends arrest in Khagaria (Chitragupta Nagar) PS Case No. 943 of 2019 registered under Section 30(a) of Bihar Prohibition and Excise Act, 2016.

13.5 Litres of illicit liquor is alleged to have been recovered in course of search by the police party. Certain persons are alleged to have fled away. The petitioner's name has been taken by the Village Chaukidar as being one of those who fled away from the



place of recovery.

Learned Counsel for the petitioner submits that even as per prosecution recovery is from the Power House and not from the possession of the petitioner. He was not apprehended at the spot and has no concern with the illicit liquor. The recovery is from an open place having general public access and criminal responsibility for such recovery cannot be fastened upon the petitioner. In view of the facts and circumstances above no case whatsoever would be made out under the provisions of Bihar Prohibition and Excise Act.

Learned APP has opposed the prayer for pre-arrest bail on the ground of the same being not maintainable in view of the statutory bar on pre-arrest bail under the Bihar Prohibition and Excise Act. .

Considering the submissions and the facts, this Court, in view of the parameters for considering pre-arrest bail laid down in the case of ***Ram Vinay Yadav vs. State of Bihar reported in 2019 PLJR (2) 1089 (FB)***, is inclined to accept the submission by the petitioner for the limited purpose of grant of pre-arrest bail. The petitioner's prayer for anticipatory bail is allowed.

Accordingly, let the petitioner above named, in the event of arrest or surrender before the court below within four weeks from today, be released on bail on furnishing bail bonds of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of Special Judge, Excise, Khagaria in Khagaria (Chitragupta Nagar) PS Case No. 943 of 2019 subject to all conditions as laid down in Section 438(2) of the Criminal Procedure Code as also the following conditions:-

(i) That one of the bailors will be a close relative of the petitioner who will give an affidavit giving genealogy as to how he is related with the petitioner. The bailor will also undertake to inform the Court if there is any change in the address of the petitioner.

(ii) That the petitioner will be well represented on each



date and if he fails to do so on two consecutive dates, his bail bond will be liable to be cancelled.

(Madhuresh Prasad, J)

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