

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.9528 of 2020

Arising Out of PS. Case No.-365 Year-2019 Thana- GOVINDGANJ District- East
Champaran

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SHARMA CHOUDHARY @ SHARMA MAHTO S/o Late Fagu Choudhary
@ Late Fagu Mahto Resident of Village- Sirni Nayka Tola, P.S.- Malahi,
District- East Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Pramod Kumar Pandey
For the Opposite Party/s : Mr.Humayou Ahmad Khan

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA

ORAL ORDER

2 04-03-2020 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

This application for grant of anticipatory bail arises
out of Govindganj (Malahi) Police Station Case No. 365 of
2019, disclosing offence under Sections 272/273 of the Indian
Penal Code and Section 30(a) of the Bihar Prohibition and
Excise Act, 2016 (hereinafter referred to as 'the Act').

The allegation against the petitioner, as per the First
Information Report, is that the police recovered 13.6 litres of
illicit liquor from the thatched hut of the petitioner.

Learned Counsel for the petitioner submits that the
petitioner has falsely been implicate in this case inasmuch as the



hutment from where the illicit liquor has been recovered was abandoned and the petitioner or his family members do not reside in the same. He further submits that at the time of seizure, the procedure prescribed under Section 100 of the Code of Criminal Procedure, 1973 has not been complied with by the seizing authority.

After having heard learned Counsel for the parties concerned and taking into consideration the fact that from perusal of the First Information Report and the seizure list, it is apparent that the illicit liquor has been recovered from the thatched hut of the petitioner. Accordingly, on perusal of the First Information Report and the seizure list, a *prima facie* case is made out against the petitioner and in view of the Full Bench decision of this Court, in **Criminal Appeal (S.J.) No. 431 of 2019 (Ram Vinay Yadav v. The State of Bihar)**, I am not inclined to exercise my discretion for grant of anticipatory bail.

This application is, accordingly, dismissed.

However, the petitioner is directed to surrender before the Court below within a period of four weeks from today and seek regular bail, if so advised. If he does so, his application for regular bail may be considered by the learned Court below on the same day on its own merit without being prejudiced by



rejection of present application for grant of anticipatory bail.

Prabhakar Anand/-

(Anil Kumar Sinha, J.)

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