

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10500 of 2020

Arising Out of PS. Case No.-473 Year-2019 Thana- RUPASPUR District- Patna

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Likhan @ Uday Manjhi @ Uday Kumar Son of Late Vinay Manjhi @ Late Bindeshwar Manjhi Resident of Village-Sevari Nagar, Police Station-Rupaspur, District-Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Sachida Nand Rai, Adv

For the Opposite Party/s : Mr.Sanjay Kumar Pandey, APP

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

3. 10-06-2020 The matter has been listed today for consideration through Video Conferencing.

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

Petitioner apprehend his arrest in connection with Rupaspur P.S. Case no. 473 of 2019 instituted for the offence under Sections 30(a) and 37(i)(ii) of the Bihar Prohibition and Excise Act, 2016.

20 liters country made wine is alleged to have been recovered from the petitioner's house through a raid in the village. Recovery has been made from many persons.

It is submitted by the petitioner's counsel that the recovery, even as per the prosecution case, was not in his



presence and behind his back. It is further submitted that the same is not in accordance with the mandatory procedure prescribed for recovery under Section 100 Cr. P.C. The petitioner has no criminal antecedents and on the basis of such implication, no offence, whatsoever, would be made out against the petitioner under the Bihar Prohibition and Excise Act.

The learned APP for the State has opposed the prayer for anticipatory bail, referring to the provisions contained in Section 76(2) of the Bihar Prohibition and Excise Act and submitted that pre-arrest bail would not be maintainable.

This Court is conscious of decision of the Full Bench in the case of *Ram Vinay Yadav vs. State of Bihar* reported in *2019(2) PLJR 1089*. Having regard to the law laid down in the said judgment and the submissions advanced on behalf of the petitioner, this Court, for the limited purpose of grant of anticipatory bail, is inclined to accept the submissions of counsel for the petitioner.

Considering the aforesaid facts, prayer of the petitioner for grant of anticipatory bail is allowed. In the event of surrender/arrest of the petitioner before the court below, named above, within four (04) weeks from today, he shall be released on anticipatory bail on furnishing bail bond of Rs. 10,000/- (ten



thousand) with two sureties of the like amount each to the satisfaction of the **Spl. Judge, Excise, Patna** in connection with **Rupaspur P.S. Case no. 473 of 2019**, subject to the conditions as laid down under Section 438(2) Cr. P.C. subject to 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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