

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10308 of 2020

Arising Out of PS. Case No.-373 Year-2019 Thana- CHANPATIA District- West Champaran

RAJBANSHI PASWAN @ BANSHI PASWAN @ RAJBANSHI
PASHAWAN, Son of Sri Shankar Paswan, Resident of Village - Semra Parsa,
P.S.- Chanpatia (Sirisiya), District- West Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Ms. Rashmi Jha, Advocate

For the Opposite Party/s : Mr. Atul Chandra, 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 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.

The petitioner is apprehending his arrest in connection with Chanpatia (Sirisiya) P.S. Case No.373 of 2019 registered for the offence punishable under Sections 30(a) and 30(b) of the Bihar Prohibition and Excise Act, 2016.



Learned counsel for the petitioner submits that for alleged recovery of 5 litres of country-made liquor from the hut of the petitioner, he is apprehending his arrest. It is further submitted that the recovery is alleged from the hut and not from the conscious possession of the petitioner.

Further submission of the learned counsel for the petitioner is that it is a case of false implication. There is no compliance of Section 100 Cr.P.C. and on the basis of such allegation, no case whatsoever is made out against the petitioner under the Bihar Prohibition and Excise Act. It is also submitted that that petitioner has also no criminal antecedents and other co-accused, namely, Rajendra Paswan, from whom 10 litres of illicit liquor is alleged to have been recovered, has been allowed anticipatory bail in Cr.Misc. No.7037 of 2020.

Learned APP for the State 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 rival submissions and the facts, this Court, in view of the parameters for considering pre-arrest bail laid down by a Full Bench of this Court in the case of ***Ram Vinay Yadav vs. State of Bihar***, reported in ***2019 PLJR(2)***



1089(FB), is inclined to accept the submissions advanced by the petitioner's counsel 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 his arrest or surrender before the court below within a period of four weeks from today, be released on bail on furnishing bail bond of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the learned Special Judge, Excise, West Champaran at Bettiah, in connection with Chanpatia (Sirisiya) P.S. Case No.373 of 2019, subject to the conditions as laid down in Section 438(2) of the Code of Criminal Procedure as also 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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