

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10406 of 2020**

Arising Out of PS. Case No.-761 Year-2019 Thana- GOVERNMENT OFFICIAL COMP.
District- Sitamarhi

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Munchun Rai, S/o Ram Prasad Rai @ Ganga Prasad Rai, Resident of Village-
Shimra ward no.4, P.S.-Dumra, District-Sitamarhi.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Sanjay Kumar, Advocate

For the Opposite Party/s : Mr.Md. Mushtaque Alam, APP

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

4 29-06-2020 Since as of now the Courts have not resumed normal

physical hearing, the matter has been listed today for

consideration through video conferencing.

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 Case No.C2-761/19 registered for the offence
punishable under Section 30(a) of the Bihar Prohibition and
Excise Act, 2016.



Prosecution has been launched by the officials on the basis of recovery of 24.375 litres of Indian Made Foreign Liquor (IMFL). Co-accused Pankaj Kumar, who has been arrested from the place of recovery, has divulged the petitioner's name, leading to his implication in this case.

Petitioner's Counsel submits that the disclosure by co-accused Pankaj Kumar is based on extraneous considerations. The said Pankaj Kumar is an accused in an F.I.R. (Annexure 2) lodged by the petitioner's mother, bearing Dumra P.S. Case No.318 of 2019.

Further submissions is that as per the seizure list, recovery is from husk stack kept next to the house of the petitioner. The place is having general access and as such, recovery can by no stretch of imagination be attributed to the petitioner. He submits that the facts are such that no case whatsoever is made out under the Bihar Prohibition & Excise Act. The petitioner has no criminal antecedents.

Learned APP for the State referring to the statutory bar on pre-arrest bail under Section 76(2) the Bihar Prohibition and Excise Act opposes the prayer.

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 (2) PLJR 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 A.D.J.-II Cum-Special Judge, Excise Act, Sitamarhi, in connection with Case No.C2-761/19, 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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