

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No 10388 of 2020**

Arising Out of PS. Case No.-495 Year-2019 Thana- GAYA KOTWALI District- Gaya

JITENDRA KUMAR @ JITENDRA KUMAR SINGH Son of Late Manoj
Pahalwan @ Manoj Prasad Resident of Village - Murlihill Bairagi, P.S.-
Kotwali, Dist.- Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr Rabindra Kumar Priyadarshi, Advocate
For the Opposite Party/s : Mr Amarendra Prasad, APP

CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL ORDER

2 10-06-2020 The anticipatory bail petition has been listed today for
consideration through Video Conferencing.

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

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

Petitioner apprehends arrest in connection with
Kotwali (Gaya) Police Station (for brevity, *PS*) Case No 495 of
2019 dated 23.10.2019 instituted for the offence punishable
under Section 30 (a) of Bihar Prohibition and Excise Act, 2016.

The prosecution case alleges recovery of 14 liters
country made liquor by the roadside. Petitioner has been named



as an accused on secret information that he used to indulge in sale of liquor.

Learned counsel for the petitioner submits that neither any recovery of incriminating material is alleged from his possession, nor he was arrested on the spot from where the recovery has been made. Recovery is from a place having general public access and, in the circumstance, no case whatsoever would be made out against the petitioner on the basis of such recovery, under the Bihar Prohibition and Excise Act. There is no compliance with Section 100 of Criminal Procedure Code and the petitioner has no criminal antecedent.

The learned APP for the State has opposed the prayer for pre-arrest bail referring to the provisions contained in Section 76 (2) of the Bihar Prohibition and Excise Act.

Having heard the parties, this Court would consider the parameters for consideration of prayer for pre-arrest bail in terms of the Full Bench judgment of this Court in the case of *Ram Vinay Yadav -Versus- The State of Bihar, 2019 (2) PLJR 1089*.

For the limited purpose of grant of bail, this Court is inclined to accept the submissions of learned 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, named above, before the Court below, within four (04) weeks from today, he shall be released on anticipatory bail on his furnishing bonds of Rs 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of Special Judge, Excise, Gaya in connection with Kotwali (Gaya) PS Case No 495 of 2019 dated 23.10.2019 subject to the conditions as laid down under Section 438 (2) of Criminal Procedure Code and 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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