

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10452 of 2020

Arising Out of PS. Case No.-145 Year-2019 Thana- GOVERNMENT OFFICIAL COMP.
District- Banka

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PRAMOD KAPRI @ PAPPU KAPRI Son of Gopi Krishna Kapri Resident of
Village - Chorbay, P.S.- Amarpur, Dist.- Banka.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Brij Nandad Prasad, Adv.
For the Opposite Party/s : Ms.Asha Devi, APP

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 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 Excise
Complaint Case No. 145 of 2019, instituted for the offence
under Section 30(a) of the Bihar Prohibition and Excise Act.

10 liters of illicit country made wine is alleged to have
been recovered from the petitioner's shop.

It is submitted by the petitioner's counsel that petitioner's
shop is outside his house. The recovery is from the shop and not
from the petitioner's possession. The shop is having general
public access. Therefore, the recovery cannot be attributed to the



petitioner. There is no compliance with the mandatory procedure prescribed for recovery under Section 100 Cr. P.C. and petitioner has no criminal antecedents. It is submitted that no case, 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 **Addl. Sessions Judge-II, Banka** in connection with **Excise Complaint Case No. 145 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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