

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10563 of 2020

Arising Out of PS. Case No.-34 Year-2018 Thana- LALIT NARAYAN UNIVERSITY
District- Darbhanga

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VISHAL KUMAR Son of Bishnudev Sah Resident of Village - Ruhelaganj,
P.S.- L.N.M.U., Distt.- Darbhanga.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner/s : Mr.Virendra Kumar, Advocate
For the Opposite Party/s : Mr.Md. Mushtaque Alam, 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 in view of the Nationwide Lockdown on account of the 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.

Petitioner apprehends arrest in LNMU PS Case No. 34 of 2018 registered under Sections 420, 201/34 of the IPC and Section 30(a) of Bihar Prohibition and Excise Act, 2016 .

The case of the prosecution is regarding recovery of 746 litres of illicit liquor from the pick up vehicle parked in front of the house of co-accused Vishnu Sah. Petitioner's motorcycle was parked at the place of recovery leading to his implication.

Learned Counsel for the petitioner submits that co-accused Vishnu Sah is his father and therefore his motorcycle was parked in front of his house. The petitioner does not reside at the



village from where recovery has been made but he resides at Patna in a hostel where he is pursuing studies for competitive examinations. It is submitted that there is no recovery from the petitioner's possession. He has no criminal antecedent and in the circumstances no case whatsoever would be made out under the provisions of Bihar Prohibition and Excise Act. Co-accused Vishnu Sah has been allowed anticipatory bail in Cr. Misc. No. 41960 of 2018.

Learned APP 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 submissions and the facts, this Court, in view of the parameters for considering pre-arrest bail laid down in the case of ***Ram Vinay Yadav vs. State of Bihar reported in 2019 PLJR (2) 1089 (FB)***, is inclined to accept the submission by the petitioner 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 arrest or surrender before the court below within four weeks from today, be released on bail on furnishing bail bonds of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of 2nd Additional Sessions Judge -cum- Special Judge, Excise Act, Darbhanga in LNMU PS Case No. 34 of 2018 subject to all conditions as laid down in Section 438(2) of the Criminal Procedure Code as 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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