

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11599 of 2020

Arising Out of PS. Case No.-502 Year-2019 Thana- SIWAN CITY District- Siwan

RAHUL KUMAR Son of Late Madhu Chaudhary Resident of Village- Sabji
Mandi Machhlihatta, P.S.- Siwan Town, District- Siwan.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ajay Kumar Tiwary
For the Opposite Party/s : Ms. Meena Singh

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 05-03-2020 Heard learned counsel for the petitioner and the learned
APP for State.

Petitioner apprehends his arrest in connection with Siwan
Town P.S. Case no. 502 of 2019 instituted for the offence under
Section(s) 30(a) of the Bihar Prohibition and Excise Act, 2018.

The brother of the petitioner has been apprehended from
his empty shop along with 34.020 liters of illicit Indian Made
Foreign liquor. The petitioner has been implicated because he
happens to be the owner of the shop and his name has been
stated by his apprehended brother.

It is submitted that no recovery whatsoever has been
made from the petitioner nor is the recovery from the shop in his
presence. The petitioner has no knowledge about the alleged
recovered liquor being kept in the shop by his brother. The



petitioner has no criminal antecedent and in view of the nature of allegations made in the FIR, no offence 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 **Additional Sessions Judge-IIInd-cum Special Judge, Excise Siwan**, in connection with **Siwan Town P.S. Case no. 502 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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