

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.16144 of 2020**

Arising Out of PS. Case No.-308 Year-2019 Thana- JOKIHAT District- Araria

SHAVAJ @ SAHAVAJ Son of Mohammad Jahid Resident of Village -
Bhagwanpur, Turakali, Ward No.11, P.S.- Jokihat, Dist.- Araria.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Kundan Kumar Singh,Advocate

For the Opposite Party/s : Mr.Ajay Kumar No. 2,APP

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

5 25-11-2020 Heard learned counsel for the petitioner and Mr. Ajay
Kumar No. 2, learned APP for the State.

The petitioner in the present case is seeking pre-arrest bail in connection with Spl. Case No. 1046 of 2019 arising out of Jokihat P.S. Case No. 308 of 2019 registered for the offences punishable under Sections 272/273/34 IPC read with 30(a) Bihar Prohibition and Excise Act 2016.

Learned counsel for the petitioner submits that as per allegations the Police Sub-Inspector got an information that in the residential house of Md. Safir, the banned medicines which are intoxicant are lying loaded on pickup van. After verification of the said information when the police party raided the house of the Md. Safir, they found one Yodha pickup vehicle was standing in the premises of Md. Safir and on the same many cartons were loaded. In presence of two independent witnesses when the cartons were



checked, it was found that there were altogether 30 cartons having 160 bottles in each of the cartons, a total of 4800 bottles containing codine phosphate and chlopheniramine were there. The owner of the premises and his family members were found absconding.

Learned counsel submits that it is evident from the FIR that the vehicle was seized from the premises of Md. Safir. This petitioner is owner of the vehicle which was hired by Md. Safir but the petitioner was not aware that what were being transported on the said vehicle.

On the other hand, learned APP for the State has opposed the prayer for anticipatory bail of the petitioner. It is his submission that from the materials present on the records it would appear that Md. Safir is the resident of village Bhagwanpur, ward no. 4 under Jokihat police station and this petitioner is co-villager of said Md. Safir though the ward number is different but they are in the same village, therefore, no reasonable person can believe that the petitioner was not aware of the goods which were being loaded on his vehicle. It is his submission that huge quantity of banned medicines containing alcoholic substance were being transported in contravention of the provisions of the Bihar Prohibition and Excise Act, 2016. It is, thus, submitted that considering the Bar under Section 76(2) of the Act of 2016 and the judgment of the Hon'ble Full Bench of this Court in the case of **Ram Binay Yadav Vs. The State of Bihar** reported in **2019 (2) PLJR 1089**, the petitioner does



not deserve the privilege of anticipatory bail.

Having regard to the facts and circumstances of the case and the materials noticed hereinabove, the fact that the petitioner and Md. Safir are of the same village, the vehicle was standing in the premises of Md. Safir loaded with huge quantity of medicines having alcoholic substance, the petitioner being registered owner of the vehicle, there is prima-facie material against him, this Court is not inclined to grant privilege of anticipatory bail to the petitioner. The prayer for anticipatory bail is, thus, refused.

In case the petitioner prays for regular bail in the court below within four weeks from today, his prayer for regular bail shall be considered on its own merit without being prejudiced by the present order of this Court.

The observation with regard to surrender in the court below within four weeks shall not be construed as granting any interim protection to the petitioner for the aforesaid period.

This application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

SUSHMA2/avin

U		T	
---	--	---	--

Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

