

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26200 of 2020

Arising Out of PS. Case No.-712 Year-2019 Thana- MAHUA District- Vaishali

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Dhananjay Kumar @ Gulten Singh, S/o Late Jagarnath Singh, Resident of
Village-Mahua, P.S.-Mahua, District-Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Smt. Bela Singh, Advocate

For the Opposite Party/s : Mr.Abhay Kumar-1, APP

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 15-10-2020 Since as of now the Courts have not resumed

normal physical hearing, the matter has been listed today for

consideration through video conferencing.

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.

The petitioner is apprehending his arrest in

connection with Mahua P.S. Case No.712 of 2019 registered

for the offence punishable under Sections 30(a), 32(ii),

34(ii), 38(ii), 41(i) of the Bihar Prohibition and Excise Act,



2018.

540.830 litres Indian Made Foreign Liquor has allegedly been recovered from a pick-up van standing on the roadside. The petitioner's implication is based on the alleged statement of local people that the petitioner and other persons were involved in the trade of illicit liquor.

It is submitted by the petitioner's counsel that even as per the prosecution case, the petitioner has not been found at the time and place of recovery. It is further submitted that the petitioner has no concern with the pick-up van from which recovery has been made. The ingredients of the offence under the Bihar Prohibition and Excise Act is not made out in the circumstances, more so in view of the fact that there is no forensic opinion to support that the recovered liquor is intoxicant substance. The petitioner has no criminal antecedents.

Learned APP for the State 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 rival submissions and the facts, this Court, in view of the parameters for considering pre-



arrest bail laid down by a Full Bench of this Court in the case of *Ram Vinay Yadav vs. State of Bihar*, reported in **2019(2) PLJR 1089(FB)**, is inclined to accept the submissions advanced by the petitioner's counsel 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 his arrest or surrender before the court below within a period of four weeks from today, be released on bail on furnishing bail bond of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the learned 2nd Additional Sessions Judge-Cum-Excise Court, Vaishali, in connection with Mahua P.S. Case No.712 of 2019, subject to the conditions as laid down in Section 438(2) of the Code of Criminal Procedure as also 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.

This Court would expect that the petitioner’s counsel would honour her undertaking in the instant proceedings regarding supply of the requisite court fee etc. within two weeks from the date she is called upon to do so by the office.

(Madhuresh Prasad, J)

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