

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20144 of 2020

Arising Out of PS. Case No.-95 Year-2020 Thana- LAHERIMUHALLA District- Nalanda

CHHOTU KUMAR @ CHHOTI KUMAR @ RAHUL KUMAR Son of
Ashok Mahto @ Ashok Prasad Resident of Mohalla-Paharpura, Police
Station-Bihar, District-Nalanda.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Ganesh Sharma, Advocate
For the Opposite Party/s : Mr. Bisheshwar Ram, APP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 27-08-2020 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
Counsel for the State.

Petitioner apprehends arrest in Laheri PS Case No. 95 of
2020 registered under Sections 30(a) of Bihar Prohibition and
Excise Act, 2016.

The prosecution is alleging recovery of 140 litres of illicit
liquor from the house of co-accused Ravi Choudhary and Bablu
Kumar. They have statd regarding involvement of the petitioner and
Billa.

Learned Counsel for the petitioner submits that other than
the statement of co-accused there is nothing to even suggest



petitioner's involvement or responsibility. The petitioner was neither at the place of recovery nor recovery has been made from his house or his possession. It is a case of false implication and since no recovery has been made from him nor he was at the place of occurrence the offence under the Excise and prohibition Act will not be made out against the petitioner. Co-accused Billa, against whom similar allegation was made and whose name was stated by the co-accused from whose house recovery has been made, has been allowed anticipatory bail in Cr. Misc. No. 20152 of 2020. The petitioner bears no criminal antecedent.

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 made 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 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 3rd Additional Sessions Judge -cum- Special Judge (Excise) Nalanda at Biharsharif in Laheri PS Case No. 95 of 2020 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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