

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No 22760 of 2020**

Arising Out of PS. Case No.-812 Year-2019 Thana- HAJIPUR SADAR District- Vaishali

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GANESH SAH @ GANESH PRASAD SAH Son of Bishwanath Sah
Resident of Village - Harauli, P.S.- Hajipur Sadar, District - Vaishali.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr Anil Kumar, Advocate

For the Opposite Party/s : Ms Meena Singh, APP

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL ORDER

2 29-09-2020 As of now, the Courts have not resumed normal physical hearing. The matter has been listed today for consideration through Video Conferencing.

Learned counsels are appearing and making submissions from their residence. The Court Master and Secretary are also part of this virtual Court proceedings with the aid of audio visual technology.

Heard learned counsel for the petitioner and the learned APP for the State.

Petitioner apprehends his arrest in connection with Hajipur Sadar Police Station (for brevity, PS) Case No 812 of 2019 instituted for the offence punishable under Section (s) 147, 148, 149, 341, 323, 504, 353, 354, 337 of Indian Penal Code



and Section 37 (c) of Bihar Prohibition and Excise Act, 2016.

The prosecution case is that dispute at a polling station in the Primary Agriculture Credit Society polls has led to some violence. 19 named including the petitioner and 100 – 150 unknown persons have been implicated in this case of indulging in violence.

It is submitted by petitioner's counsel that the petitioner has no criminal antecedent and it is a case of false implication. Not a single police personnel has sustained any injury. In fact, villagers have sustained injuries in the ruckus which ensued on the day of polling. The allegation of being intoxicated, even as per the First Information Report, is against co-accused Kedar Choudhary and, therefore, no offence is made out against the petitioner under the Bihar Prohibition and Excise Act, 2016.

Learned APP for the State has opposed the prayer for anticipatory bail, referring to the provisions of 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 -Versus- 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 learned counsel for the petitioner.

In the facts and circumstances of the case, prayer of petitioner for grant of anticipatory bail is allowed. In the event of surrender/arrest of the petitioner, named above, before the Court below, within four (04) weeks from today, he shall be released on bail on his furnishing bonds of Rs 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of Additional Sessions Judge II, Vaishali at Hajipur in connection with Hajipur Sadar PS Case No 812 of 2019 subject to the conditions as laid down under Section 438 (2) of Criminal Procedure Code and 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.



Learned counsel for the petitioner is expected to honour his undertaking given in the instant proceedings today for depositing requisite Court fee and removing the defect (s), as pointed out, when called upon to do so.

(Madhuresh Prasad, J)

M.E.H./-

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