

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No 23804 of 2020

Arising Out of PS. Case No.-50 Year-2020 Thana- HISUWA District- Nawada

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1. MANTU KUMAR Son of Bijay Yadav Resident of Village - Kendua, P.S.- Hisua, District - Nawada.
 2. Lalan Kumar Son of Parban Yadav Resident of Village - Kendua, P.S.- Hisua, District - Nawada.
 3. Bijay Yadav Son of Bisheshwar Yadav @ Bisheshwar Prasad Yadav Resident of Village - Kendua, P.S.- Hisua, District - Nawada.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr Pramod Kumar Verma, Advocate
For the Opposite Party/s : Mr Kr Ranjit Ranjan, APP

CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL ORDER

2 09-10-2020 It is submitted by petitioners' counsel that petitioners No 1 and 3 have been arrested. Therefore, in respect of these two petitioners, namely, Mantu Kumar and Bijay Yadav, he does not press this application.

This application, in so far as these two petitioners, namely Mantu Kumar and Bijay Yadav are concerned, is dismissed, as not pressed.

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 Hisua Police Station (for brevity, PS) Case No 50 of 2020 instituted for the offence punishable under Sections 30 (a) of Bihar Prohibition and Excise Act, 2016.

The prosecution case is based on recovery of 5 liters of country made wine near a culvert. The implication of the petitioner is subsequent to recovery based on statement of local villagers.

It is submitted by the petitioner's counsel that no offence whatsoever would be made out against the petitioner. The recovery is neither from his possession nor he has been arrested on the place of recovery. Recovery is from an open place having general public access and the offences under the Bihar Prohibition and Excise Act would not be made out against the petitioner.

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 -cum- Special Judge, Nawada in Hisua PS Case No 50 of 2020 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)

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