

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26958 of 2020

Arising Out of PS. Case No.-556 Year-2019 Thana- MAJHAULIA District- West Champaran

Mukesh Singh, Son of Hirday Kuar @ Hirdaya Kunvar, Resident of village
Bishambhara, Police Station - Majhauria, District - West Champaran

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Khatim Reza, Advocate

For the Opposite Party/s : Mr. Ram Sumiran Roy, APP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 05-11-2020 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 Majhauria P.S. Case No.556 of 2019 registered for the offence punishable under Sections 413, 414, 467, 468, 353/34 of the Indian Penal Code and Section 30(a) of the Bihar Prohibition and Excise Act.



The recovery of liquor and pick-up van has led to implication of the petitioner in the instant case. The petitioner's accusation is based on a secret information received from spy.

It is submitted by the petitioner's counsel that 257 litres foreign liquor has been recovered from a pick-up van beside the roadside. The petitioner admittedly is not arrested from the spot. He has no criminal antecedents. He neither owns the vehicle nor has any concern with the liquor. The facts and circumstances leading to implication of the petitioner clearly suggest that no offence whatsoever would be made out against the petitioner under the provisions of the Bihar Prohibition and Excise Act. Co-accused Deepak Mishra alias Deepak Kumar Mishra has been allowed anticipatory bail in Cr.Misc. No.11521 of 2020, vide order dated 04.03.2020.

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 Special Judge, Excise, Bettiah, West Champaran, in connection with Majhulia P.S. Case No.556 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 his undertaking in the instant proceedings



regarding supply of the requisite court fee etc. within two weeks
from the date he is called upon to do so by the office.

(Madhuresh Prasad, J)

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