

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26985 of 2020

Arising Out of PS. Case No.-477 Year-2020 Thana- GOVERNMENT OFFICIAL COMP.
District- Aurangabad

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ARUN KUMAR @ ARUN KUMAR SINGH S/o Indradev Yadav Resident of
Village- Vishrampur, P.S.-Aurangabad (Town), District- Aurangabad.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Ashok Kumar Singh, Adv.
For the Opposite Party/s : Mr. Amitesh Kumar APP

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 06-11-2020 As of now, the Courts have not resumed normal physical hearing. The matter has been listed today for consideration through Video Conferencing.

Learned counsel 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.

Mr. Amitesh Kumar, learned APP, is appearing as it is submitted that the brief has been allotted to him by the office of Advocate General. His name may also be printed in the cause list.

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



Learned counsel for the petitioner is expected to honor his undertaking given in the instant case for depositing the requisite court fee and to remove the defects as pointed out by office when called upon.

Petitioner apprehends his arrest in connection with Excise Case no. 477 of 2020 instituted for the offence under Section 30 A of the Bihar Prohibition and Excise Act, 2018.

Having no criminal antecedents, it is submitted by the petitioner's counsel that the petitioner has been implicated in the instant case on basis of alleged recovery of 12 liters of illicit country made liquor from possession of co-accused, namely, Amarjit Kumar, who was moving on the petitioner's motorcycle.

The submission is that neither the petitioner is alleged to be arrested at the spot at the time of recovery, nor there is any recovery whatsoever from the petitioner's possession of any illicit liquor. The fact that the co-accused was alone carrying the illicit liquor on petitioner's motorcycle even if taken to be correct, would not give rise to any criminal liability against the petitioner much less under the Bihar Prohibition and Excise Act.

The learned APP for the State has opposed the prayer for anticipatory bail, referring to the provisions contained in 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 vs. 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 counsel for the petitioner.

Considering the aforesaid facts, prayer of the petitioner for grant of anticipatory bail is allowed. In the event of surrender/arrest of the petitioner before the court below, named above, within four (04) weeks from today, he shall be released on anticipatory bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the Additional Sessions Judge-VII-cum- Special Judge, Aurangabad, in connection with Excise Case no. 477 of 2020, subject to the conditions as laid down under Section 438(2) Cr. P.C. 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.

(Madhuresh Prasad, J)

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