

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.26871 of 2020**

Arising Out of PS. Case No.-115 Year-2020 Thana- SAUR BAZAR District- Saharsa

SUSHIL YADAV Son of Thako Yadav Resident of Village - Arraha, Ward No. 8, P.S. - Saur Bazar, District - Saharsa.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Amarnath Jha, Advocate

For the Opposite Party/s : Mr. Akhileshwar Dayal, APP

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

2 05-11-2020 Heard learned counsel for the petitioner and Mr. Akhileshwar Dayal, learned APP for the State in absence of Mr. Ataur Rahman, APP.

The petitioner in the present case is seeking pre-arrest bail in connection with Sour Bazar P.S. Case No. 115 of 2020 registered for the offences punishable under Sections 272, 273, 34 of the Indian Penal Code and Section 30(a) of the Bihar Prohibition & Excise Act.

Learned counsel for the petitioner submits that as per the First Information Report the liquor was recovered from the just beside the latrine room in the house of the petitioner.

Submission is that the same cannot be taken to be in conscious possession of the petitioner as the latrine room are normally constructed in the villages outside the house and is not in conscious possession of this petitioner.

On the other hand, learned APP for the State submits that



from the seizure list itself it is very clear that the latrine room is inside the house of the petitioner, therefore, there is no scope of creating any doubt on this.

Having regard to the facts and circumstances of the case where recovery has been allegedly made from near the latrine room in the house of the petitioner, considering the bar under Section 76(2) of the Bihar Prohibition and Excise Act, 2016 as also the judgment of the Hon'ble Full Bench of this Court in the case of **Ram Binay Yadav versus The State of Bihar** reported in **2019(2) PLJR 1089**, I am not inclined to grant privilege of anticipatory bail to the petitioner. Prayer for anticipatory is thus, refused.

In case the petitioner surrenders and prays for regular bail in the court below within a period of four weeks from today, his prayer for regular bail shall be considered on its own merit without being prejudiced by the present order of this Court.

The observation with regard to surrender in the court below within four weeks shall not be construed as granting any interim protection to the petitioner for the aforesaid period.

The application stands disposed of.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

