

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No 23759 of 2020

Arising Out of PS. Case No.-17 Year-2019 Thana- MADHEPURA District- Madhepura

ARVIND YADAV @ ARBIND KUMAR Son of Anirudh Yadav Resident of
Village - Bhatrandha, Rahika Tola Ward No. 5, P.S.- Madhepura
(Parmanandpur O.P.), District - Madhepura.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr Md Harun Quareshi, Advocate
For the Opposite Party/s : Ms Pushpa Sinha, APP

CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL ORDER

2 01-10-2020 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 Madhepura (Parmanandpur OP) Police Station (for brevity, PS) Case No 17 of 2019 corresponding to Excise Act Case No 22 of 2019 instituted for the offence punishable under Sections 30 (a),



30 (c) of Bihar Prohibition and Excise (Amendment) Act.

5 liters of country made liquor has been recovered from the hut where allegedly the same had been brought for selling by the petitioner.

It is submitted by the petitioner's counsel that the petitioner's implication is baseless as neither he was there at the time of recovery nor the hut belongs to him. The local people have allegedly named the petitioner. The petitioner bears no criminal antecedent. There is no compliance with Section 100 of Criminal Procedure Code and neither is there any Forensic Laboratory Report's opinion regarding the recovered substance being an intoxicant. 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, Madhepura in Madhepura (Parmanandpur OP) PS Case No 17 of 2019 corresponding to Excise Act Case No 22 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)

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