

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No 27416 of 2020

Arising Out of PS. Case No.-88 Year-2020 Thana- GOVERNMENT OFFICIAL COMP.
District- Saran

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ARVIND SINGH @ ARBIND SINGH @ ARBIND KUMAR SINGH Son of
Bhushan Singh Resident of Village - Dighara, P.S. - Awatarnagar, District -
Saran at Chapra.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr Tej Pratap Singh, Advocate
For the Opposite Party/s : Mr Dilip Kr, APP

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL ORDER

2 27-11-2020 As of now, the Courts have not resumed normal physical hearing. The matter has been listed today for consideration through Video Conferencing.

Learned 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.

Mr Dilip Kr, APP is appearing as it is submitted that the brief has been allotted to him by the office of Advocate General.

Petitioner apprehends his arrest in connection with Awatarnagar Excise Police Station (for brevity, *PS*) Case No 88



of 2020 dated 08.03.2020 instituted for the offence punishable under Section 30 (a) of Bihar Prohibition and Excise Act, 2016 (for brevity, the *Act*).

25.740 liters of foreign liquor is alleged to have been recovered from the field besides the petitioner's cattle shed.

Learned counsel for the petitioner submits that recovery is from open place having general public access. By no stretch of imagination, the recovery is from the possession or cattle shed of the petitioner. Petitioner bears a clean past and the facts and circumstances do not sustain any prosecution against the petitioner for the offence under the Act as no case is made out under the Act.

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, Excise, Saran at Chapra in Awatarnagar PS Case No 88 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)

M.E.H./-

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