

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.22887 of 2020**

Arising Out of PS. Case No.-367 Year-2019 Thana- MOUZAHDIPUR District- Bhagalpur

DILIP KUMAR SAH S/o Rameshwar Prasad Sah Resident of Village- Kateli,
P.O.- Kakwara, P.S.- Banka and Distt- Banka

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Madan Mohan, Advocate

For the Opposite Party/s : Mr.Choubey Jawahar, APP

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

3 24-11-2020 Learned counsel for the petitioner undertakes to remove all the defects as pointed out by office within four weeks after start of normal functioning of the Court.

Heard learned counsel for the petitioner and Mr. Choubey Jawahar, learned APP for the State.

The petitioner, in the present case, is seeking pre-arrest bail in connection with Mojahidpur P.S. Case No. 367 of 2019 registered for the offences punishable under Sections 30(a), 32(2) of the Bihar Prohibition and Excise Act, 2016.

As per prosecution story, when the vehicle in question was intercepted by police personnel, after seeing the police party the driver of the vehicle started fleeing towards Kajichak and the vehicle was chased and apprehended by police and huge quantity of liquors were recovered from the said vehicle. It is



alleged that 103 cartoons of country made liquor each containing 25 bottles of 300 ml. liquor was found.

Learned counsel for the petitioner being aware of the statutory bar under Section 76(2) of the Bihar Prohibition and Excise Act, 2016 and the judgment of the Hon'ble Full Bench of this Court in the case of **Ram Binay Yadav Vs. The State of Bihar** reported in **2019 (2) PLJR 1089** has attempted to save this petitioner by making a submission that the vehicle in question was sold in favour of one Rajendra Sah. Taking note of the submission, this Court had called for a verification report with respect to Sri Rajendra Sah whom the petitioner claims to have sold the vehicle in question.

From the case diary and the verification report dated 07.10.2020 available at Flag 'B', it appears that the vehicle in question is registered in the name of this petitioner. As regards Rajendra Sah it has come that he was the driver of the vehicle.

Learned counsel for the petitioner has relied upon an affidavit sworn by the petitioner himself to submit that he had transferred the vehicle to said Rajendra Sah. The swearing of affidavit is not a valid mode of transfer of vehicle and before this Court, no other material has been brought so show that the petitioner had sold the vehicle and the same was intimated to the



concerned District Transport Officer in accordance with law. This being the position, finding that there is a prima-facie material as the petitioner happens to be the owner of the vehicle, unable to explain otherwise to the satisfaction of this Court, considering the statutory bar, this Court is not inclined to entertain this application for grant of anticipatory bail to the petitioner.

Prayer for anticipatory bail of the petitioner is, thus, refused.

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

(Rajeev Ranjan Prasad, J)

Rajeev/-

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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'.

