

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No 23814 of 2020

Arising Out of PS. Case No.-266 Year-2019 Thana- LAKHNAUR District- Madhubani

SUJIT PRADHAN @ SUJEET PRADHAN @ PUTUL PRADHAN Son of
Ganga Pradhan Resident of Village - Deep, Ward No. 9, P.S. Lakhnaur
(R.S.O.P.), District - Madhubani

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr Baleshwar Kamat, Advocate
For the Opposite Party/s : Mr Ram Naresh Roy, APP

CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL ORDER

2 09-10-2020 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 Lakhnour (RSOP) Police Station (for brevity, PS) Case No 266 of 2019 (GR No 2118 of 2019) instituted for the offence punishable under Sections 272, 273 of Indian Penal Code and



Section 30 (a) of Bihar Prohibition and Excise Act.

On alleged recovery of 10.920 liters of Indian Made Foreign Liquor from the petitioner's house, the first information report has been lodged implicating the petitioner.

The learned counsel for the petitioner submits that the entire prosecution case is false. The petitioner has been implicated at the instance of the person with whom he had enmity and who was carrying on illicit business of liquor trade. It is on his complaint that the liquor has been planted in the petitioner's house in his absence and shown as a recovery. The petitioner was not present at the place. Recovery is not in accordance with the statutory provisions and there is no forensic opinion to support the allegation that the recovered substance was intoxicant. The offences under the Bihar Prohibition and Excise Act would not be made out against the petitioner. Petitioner also bears no criminal antecedent.

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 Act, Madhubani in Lakhnaour RSOP) PS Case No 266 of 2019 (GR No 2118 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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