

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.27579 of 2020**

Arising Out of PS. Case No.-175 Year-2019 Thana- NAYAGAON District- Saran

DEONATH MAHTO @ DEVNATH MAHTO Son of Ramishwar mahto @
Rameshwar Mahto Resident of Village - Shobhepur, P.S. - Nayagaon, District
- Saran.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Harish Kumar, Advocate

For the Opposite Party/s : Mr. Md. Fahimuddin, APP

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

2 27-11-2020 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. Md.
Fahimuddin, learned APP for the State.

The petitioner, in the present case, is seeking pre-
arrest bail in connection with Nayagaon P.S. Case No. 175/2019
registered for the offences punishable under Sections 341, 323,
383, 188, 272, 273 of the Indian Penal Code and Section
30/38/41 of Bihar Prohibition and Excise Act.

As per prosecution story on the alleged date both the
parties were quarreling for which Nayagaon P.S. Case No.
174/2019 was lodged and the present case has been lodged
alleging that accused persons are involved in illegal sale of wine



and some wine, as shown in the F.I.R., were produced by the informants, seizure list was prepared which shows 100 liters of country made wine from a boat belonging to Deonath Mahto and other articles were recovered.

Learned counsel for the petitioner submits that petitioner has no concern with the alleged seized wine and from the seizure list it would appear that the informant had produced the boat with illicit liquors before police. Learned counsel submits that they are on inimical terms with the petitioner and two days prior to the alleged occurrence there had been scuffle giving rise to Nayagaon P.S. Case No. 174/2019, and out of seven, six similarly situated accused have been granted privilege of pre-arrest bail by a learned coordinate Bench of this Court vide order dated 27.02.2020 passed in Cr. Misc. No. 2271/2020.

Learned A.P.P. for the State has though opposed the prayer for anticipatory bail of the petitioner but on perusal of Annexure '3' when it has been found that six out of seven co-accused similarly situated have been granted privilege of anticipatory bail learned A.P.P. is unable to draw any distinction between the case of the petitioner and that of those who have been given the benefit of pre-arrest bail.

Having regard to the facts and circumstances of the



case and in the nature of submissions that the illicit liquor along with the boat were not intercepted by police rather from the seizure list it would appear that the informants had produced the boat with the illicit liquor before the police, it is submitted that the informants are co-villagers and they are on inimical terms with the petitioner and two days prior to the present occurrence there had been a scuffle giving rise to an occurrence for which Nayagaon P.S. Case No. 174/2019 has been lodged and further submission of learned counsel for the petitioner that out of seven six similarly situated accused have been granted privilege of pre-arrest bail by a learned coordinate Bench of this Court vide order dated 27.02.2020 passed in Cr. Misc. No. 2271/2020 (Annexure '3') and no distinction having been drawn in respect of the case of the petitioner, let the petitioner above-named in the event of his arrest or surrender within a period of four weeks from today in connection with Nayagaon P.S. Case No. 175/2019, be released on bail on furnishing of bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of learned 2nd Additional Sessions Judge – cum – Special Judge, Excise, Saran, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C. i.e.



(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;

(ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

(iii) a condition that the person shall not leave India without the previous permission of the Court.

And further condition that the court below shall verify the criminal antecedent of the petitioners and in case at any stage it is found that the petitioners have concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner.

(Rajeev Ranjan Prasad, J)

Rajeev/-

U		T	
---	--	---	--

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'.

