

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.23488 of 2020**

Arising Out of PS. Case No.-73 Year-2020 Thana- GOVERNMENT OFFICIAL COMP.
District- Samastipur

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SANJAY SAHNI Son of Ramji Sahni Resident of Village - Chandauli Ward
No.9, P.S.- Ujiarpur, Distt.- Samastipur. Petitioner

Versus

THE STATE OF BIHAR Opposite Party

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Appearance :

For the Petitioner/s : Mr.Pramod Kumar Singh, Advocate
For the Opposite Party/s : Mr.Chandrasen Prasad Singh, APP

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

2 06-10-2020 Learned counsel for the petitioner undertakes to

remove all the defects pointed out by Stamp Reporter within

four weeks after start of normal functioning of the Court.

Heard learned counsel for the petitioner and Mr.
Chandrasen Prasad Singh, learned APP for the State.

The petitioner in the present case is seeking pre-arrest
bail in connection with Excise Case No. 73 of 2020 registered
for the offences punishable under Section Section 30(a) Bihar
Prohibition and Excise Act, 2016.

Learned counsel for the petitioner submits that from
the First Information Report it will appear that recovery of 4.5
liters of illicit liquor has been made from a place adjacent to the
house of the petitioner and not from the premises of the house,
thus, it is a case where there is no prima-facie material to
connect the petitioner in the present case who has otherwise no



criminal antecedent. It is further submitted that the learned Special Court Excise, Samastipur has refused to look into the submissions of the petitioner only on the ground that in view of the Section 76(2) of the Bihar Prohibition and Excise Act 2016 the application for anticipatory bail is barred. According to learned counsel the Hon'ble Full Bench of this Court in the case of **Ram Binay Yadav versus The State of Bihar** reported in **2019 (2) PLJR 1089** has taken a view so long as there is no prima-facie material to connect the petitioner with the alleged offence, the prayer for anticipatory bail may be considered.

Mr. Chandra Sen Prasad Singh, learned APP for the State has though opposed the anticipatory bail of the petitioner but considering the facts and circumstances of the case wherein the liquor has been recovered outside the house/adjacent to the house of the petitioner and not from the premises of this petitioner and the petitioner has otherwise no criminal antecedent, let the petitioner above-named in the event of his arrest or surrender within four weeks from today, be released on bail on furnishing of bail bonds of Rs. 25,000/- (Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned Additional Session Judge-II-cum-Special Judge, Excise Act, Samastipur, in connection with Excise Case



No. 73 of 2020, 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 petitioner and in case at any stage
it is found that the petitioner has concealed his criminal
antecedent, the court below shall take step for cancellation of
bail bond of the petitioner.

The application is allowed.

(Rajeev Ranjan Prasad, J)

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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'.

