

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28662 of 2020

Arising Out of PS. Case No.-32 Year-2020 Thana- VAISHALI District- Vaishali

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Vishesh Kumar @ Vicky Thakur @ Nitesh Kumar, S/o Pawan Thakur,
Resident of Village- Gopalpur, P.S.- Vaishali, District- Vaishli

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Satya Prakash Sinha, Advocate

For the Opposite Party/s : Mr. Surendra Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 04-12-2020 Since as of now the Courts have not resumed normal physical hearing, the matter has been listed today for consideration through video conferencing.

The learned counsels are appearing and making submissions from their residence. The Court Master and Secretary are also part of this virtual Court proceedings from their homes, all with the aid of audio visual technology.

Mr. Surendra Kumar, learned APP is appearing for the State as it is submitted that the brief has been allotted to him by the office of Advocate General.

Heard learned counsel for the petitioner and the learned APP for the State.

The petitioner is apprehending his arrest in connection with Vaishali P.S. Case No.32 of 2020 registered for



the offence punishable under Section 30(a) of the Bihar Prohibition and Excise (Amendment) Act, 2018.

44.930 litres illicit liquor is alleged to have been recovered from mustard field of one Arun Thakur situated behind the house of the petitioner.

It is submitted by the petitioner's counsel that the recovery is not from the petitioner's house, but from the mustard field having general public access and criminal liability for the same cannot be fastened on the petitioner. The submission is of false implication and that there is no recovery from his possession or property. In the circumstances, it is submitted that no offence whatsoever is made out against the petitioner under the Bihar Prohibition and Excise Act.

Learned APP for the State has opposed the prayer for pre-arrest bail on the ground of the same being not maintainable in view of the statutory bar on pre-arrest bail under the Bihar Prohibition and Excise Act.

Considering the rival submissions and the facts, this Court, in view of the parameters for considering pre-arrest bail laid down by a Full Bench of this Court in the case of ***Ram Vinay Yadav vs. State of Bihar***, reported in ***2019(2) PLJR 1089(FB)***, is inclined to accept the submissions advanced by the



petitioner's counsel for the limited purpose of grant of pre-arrest bail. The petitioner's prayer for anticipatory bail is allowed.

Accordingly, let the petitioner, above named, in the event of his arrest or surrender before the court below within a period of four weeks from today, be released on bail on furnishing bail bond of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge-II Cum Special Judge, Excise, Vaishali at Hajipur, in connection with Vaishali P.S. Case No.32 of 2020, subject to the conditions as laid down in Section 438(2) of the Code of Criminal Procedure as also subject to 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.

This Court would expect that the petitioner's counsel would honour his undertaking in the instant proceedings



regarding supply of the requisite court fee etc. within two weeks
from the date he is called upon to do so by the office.

(Madhuresh Prasad, J)

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