

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28696 of 2020

Arising Out of PS. Case No.-54 Year-2020 Thana- KATRA District- Muzaffarpur

Monu Mishra, Son of Raj Kishore Mishra, Resident of Village- Dhanaur, P.S.-
Katra, District- Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Thakur, Advocate
		Mr. Pravin Kumar, Advocate
For the Opposite Party/s	:	Mr. Sakir Ahmad, APP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 18-12-2020 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. Sakir Ahmad, 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 Katra P.S. Case No.54 of 2020 registered for the offence punishable under Sections 272, 273 of the Indian Penal Code and Sections 30(a), 38(i) of the Bihar Prohibition and Excise Act.

The informant-police officer on a secret information has searched the house of co-accused Deepak Choudhary. Dheeraj Choudhary and Bimla Devi were apprehended. 441.000 litres Indian Made Foreign Liquor was recovered from the house in question.

Mr. Ajay Kumar Thakur, learned counsel appearing for the petitioner submits that the petitioner has been dragged in the case on the allegation that the apprehended persons have stated about purchasing the liquor from the petitioner. The allegation is based on extraneous considerations. Even as per the prosecution case, there is no recovery from the petitioner nor is there any material to support the allegation made by co-accused, which itself has no evidentiary value to even suggest that the purchases were made from the petitioner. The facts and circumstances are such 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 Special Judge, Excise, Muzaffarpur, in connection with Katra P.S. Case No.54 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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