

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No 30059 of 2020**

Arising Out of PS. Case No.-316 Year-2019 Thana- BIRAUL District- Darbhanga

MD DILSHAD @ LANGARA @ DILSER Son of Md Alam Resident of
Village- Pipraghat, P.S.- Singhia, District- Samastipur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr Raja Ram Mishra, Advocate

For the Opposite Party/s : Ms Meena Singh, APP

CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL ORDER

2 **23-12-2020** 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 Biraul Excise Police Station (for brevity, *PS*) Case No 316 of 2019 instituted for the offence punishable under Section 30 (a) of Bihar Prohibition and Excise Act, 2016 (for brevity, the *Act*).



25.560 liters of Indian Made Foreign Liquor, as per prosecution case, has been recovered from the dicky of a tempo.

Petitioner's counsel submits that the petitioner's implication is merely based on the false statement of the Driver recorded in course of his confessional statement made before the police that the liquor was belonging to the petitioner. Petitioner was neither apprehended in the tempo nor there is any recovery from his possession. Implication is based on confessional statement of co-accused having no evidentiary value. The facts and circumstances are such that no case whatsoever would be made out against the petitioner under the Act. Petitioner has 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, Darbhanga in Biraul PS Case No 316 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)

M.E.H./-

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