

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.27037 of 2020

Arising Out of PS. Case No.-278 Year-2020 Thana- MADHAURAH District- Saran

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Hamid Ali @ Hamid Ali Kuraishi, Son of Shahabuddin Kuraishi, Resident of
Village - Nagra, P.S. - Khaira, Distict - Saran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Rajesh Ranjan, Advocate
For the Opposite Party/s : Mr.Bisheshwar Ram, APP

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 13-11-2020 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.

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

The petitioner is apprehending his arrest in
connection with Madhaura P.S. Case No.278 of 2020 registered
for the offence punishable under Section 188 of the Indian Penal
Code and Sections 30(a) and 37(3) of the Bihar Prohibition and
Excise Act, 2016.



The prosecution case is that the police have conducted a raid at Pawan Tent House on a secret information that some persons have assembled and are consuming and selling illicit liquor. Five persons have fled away and two have been caught by the police. The petitioner's name has been disclosed by the two arrested persons as well as the *Chaukidar* as being one of the persons who fled away.

It is submitted by the petitioner's counsel that even as per the prosecution case, the petitioner was not present at the spot at the time of recovery of one bottle of illicit liquor. The petitioner's implication is solely on the basis of the statement of co-accused and Choukidar, which has no evidentiary value. No illicit liquor was recovered from the petitioner's possession and it is submitted that the petitioner has no criminal antecedents. The facts and the circumstances of the case are such that no offence whatsoever would be made out against the petitioner. Co-accused Manoj Kumar Singh @ Manoj Singh and Prakash Sah @ Prakash Kumar had earlier been allowed anticipatory bail in Cr.Misc. No.26233 of 2020 and Cr.Misc. No.26683 of 2020 respectively.

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 2nd Additional Sessions Judge Cum Special Judge, Excise Act, Saran, in connection with Madhaura P.S. Case No.278 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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