

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.78511 of 2019**

Arising Out of PS. Case No.-862 Year-2019 Thana- ARARIA District- Araria

HABIB @ HABIBUR RAHMAN Son of Late Masleuddin Resident of
Village - Chandradai, Ward No. -7, P.S.- Araria (R.S.), District- Araria

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ramesh Kumar Singh, Adv

For the Opposite Party/s : Mr.Nitya Nand Tiwary, APP

**CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER**

3 09-06-2020 Heard learned counsel for the petitioner as well as
learned APP through video conferencing.

190 bottles of cough syrup (each containing 100 ML)
has been seized from a medicine shop of which, Raushan
Kumar has been identified to be the proprietor. It has also been
disclosed that during course of interrogation, the aforesaid
Raushan Kumar confessed that the aforesaid cough syrup is
supplied by one Saddam, he used to supply to Habib as well as
Anwar for sale.

Although, as per Section 76 of the Bihar Prohibition
and Excise Act, 2016, anticipatory bail is not at all maintainable,
however, the vires of the Act is under challenge and, for the
present, the matter is pending before the Hon'ble Apex Court



and in the aforesaid background, the Full Bench of this Court in the case of *Ram Vinay Yadav v. State of Bihar* as reported in *2019(2) PLJR 1089*, has observed that in case of non exposure of any of the ingredients relating to Bihar Prohibition and Excise Act, 2016 will entitle an accused to be allowed on anticipatory bail.

Irrespective of the recovery of cough syrup, the status of the petitioner is not at all found properly recognizable in the eye of law on account of lack of corroborative evidence and further, inculpatory extra-judicial confessional statement of the co-accused inadmissible, coupled with the fact that co-accused, Md. Saddam under Cr. Misc. No. 4662/2020 as well as Md. Anwar Alam under Cr. Misc. No. 84732/2019 had already been granted anticipatory bail by the Co-ordinate Benches of this Court.

Consequent thereupon, petitioner, **HABIB @ HABIBUR RAHMAN** is directed to be released on anticipatory bail in the event of arrest or surrender within four weeks on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of 2nd ADJ-cum-Special Judge, Araria in connection with Araria P.S. Case No.862 of 2019 corresponding to Special Case No.



1379/2019, subject to the conditions as laid down under Section
438(2) of the Cr.P.C.

(Aditya Kumar Trivedi, J)

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