

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No 85030 of 2019

Arising Out of PS. Case No.-415 Year-2019 Thana- SIKARPUR District- West Champaran

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DHANANJAY KUMAR Son of Late Kamakhya Prasad @ Kamesksha Prasad
Resident of Village - Shivganj, P.S.- Shikarpur, Distt.- West Champaran.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr Bimlesh Kumar Pandey, Advocate
For the Opposite Party/s : Mr Ajay Kumar No 2, APP

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL ORDER

2 07-01-2020 Heard learned counsel for the petitioner and the learned
APP for State.

Petitioner apprehends arrest in connection with Shikarpur
Police Station (for brevity, *PS*) Case No 415 of 2019 instituted
for the offence punishable under Section(s) 30 (a) of Bihar
Prohibition and Excise Act.

Total 12.815 liters of illicit liquor have been recovered
from the first floor of the premises owned by Ajay Prasad
Barnwal wherein co-accused Madhuri Devi and Bachchi Devi
were living as tenants. Upon such recovery, the said two ladies
have been arrested. It is alleged in the first information report
that the ladies have disclosed the petitioner's name that he
brings liquor from Nepal for selling it from the said premises.



Neither recovery has been made from the petitioner nor the petitioner was apprehended at the spot. Merely, upon such statement made by co-accused, the petitioner has been roped in this case on the basis of suspicion. Such implication of the petitioner on the basis of statement of co-accused would not make out any case against the petitioner under the provisions of the Bihar Prohibition and Excise Act, as false implication cannot be ruled out.

The learned APP for the State has opposed the prayer for anticipatory bail referring to the provisions contained in Section 76 (2) of the Bihar Prohibition and Excise Act.

For the limited purpose of grant of bail, this Court is inclined to accept the submissions of learned counsel for the petitioner.

Considering the aforesaid submissions and in light of the judgment of the Full Bench of this Court in the case of *Ram Vinay Yadav -Versus- State of Bihar, 2019 (2) PLJR 1089*, 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 Special Judge, Excise, West Champaran at Bettiah in connection with Shikarpur PS Case No 415 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.

(Madhuresh Prasad, J)

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