

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.85357 of 2019

Arising Out of PS. Case No.-271 Year-2019 Thana- SAMASTIPUR District- Samastipur

ARUN SAH @ VIJAY KUMAR Son of - Mahendra Sah Resident of Village-
Ghosh Lane Ward -17, Samastipur, P.S.- Nagar, District- Samastipur, Bihar,
India.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ashok Kumar Singh Adv.

For the Opposite Party/s : Ms. Pushpa Sinha, APP

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 apprehend his arrest in connection with
Samastipur (Town) P.S. Case No. 271 of 2019 instituted for
the offence under Section(s) 30(A) of the Bihar Prohibition and
Excise Act, 2016.

Case is instituted by the police with the allegation that
while on night patrolling duty, upon a secret information of
bootlegging by Arun Sah i.e. the petitioner a raid was
conducted at the house of petitioner from where 9 bottles 375
ml each containing foreign liquor was recovered and seized.

It is submitted by the petitioner's counsel that he has
been implicated in the instant case falsely. The seizure list is



dated 01.11.2019 whereas the F.I.R. has been forwarded to the Court 4 days thereafter i.e. on 05.11.2019. The recovery is not from the petitioner's possession nor has he been found or apprehended at the place from where the recovery has been made. In view of the aforesaid submissions, petitioner's false implication cannot be ruled out and it is submitted that no offence whatsoever can said to be made out under the Bihar Prohibition and Excise Act.

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.

This Court is conscious of decision of the Full Bench in the case of *Ram Vinay Yadav vs. 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 counsel for the petitioner.

Considering the aforesaid facts, prayer of the 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 anticipatory bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the **2nd Addl. Sessions Judge-cum-Special Judge Excise, Samastipur**, in connection with **Samastipur (Town) P.S. Case No. 271 of 2019**, subject to the conditions as laid down under Section 438(2) Cr. P.C. 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.

(Madhuresh Prasad, J)

shyambihari/-

U		T	
---	--	---	--

