

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.85345 of 2019

Arising Out of PS. Case No.-391 Year-2019 Thana- CHAPRA MUFFASIL District- Saran

Krishna Choudhary Son of Janak Choudhary Resident of Village - Sandha
Dhala, P.S.- Chapra Muffasil, Distt.- Saran.

... .. Petitioner

Versus

The State of Bihar Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Krishna Kant Singh

For the Opposite Party/s : Mr.Shaheen Begum

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 09-01-2020 . Heard learned Counsel for the petitioner and the
learned APP for the State.

Petitioner apprehends his arrest in a case lodged under
the Bihar Prohibition and Excise Act.

Various recoveries are referred to in the prosecution
case. The relevant recovery for the purpose of petitioner's
implication is 12 Litres of Indian made foreign liquor from an
old counter which has been recovered from an open space in
front of house of one Sita Ram Singh.

It is submitted by petitioner's counsel that the
recovery is from a counter/box which was lying in an open
space as per seizure list. There is general public access to the
place from where recovery has been made. In the circumstances
petitioner's false implication cannot be ruled out. It is submitted



that other than suspicion there is nothing to connect the petitioner with the alleged recovery. Petitioner was neither apprehended there nor there is any specific allegation that the same was kept by the petitioner, merely for the fact of recovery from the box from an open space the box being attributed to the petitioner he has been implicated. No case is made out under the provisions of Bihar Prohibition and Excise Act. Even recovery is also not in accordance with Section 100 Cr.P.C. There is only confessional statement naming the petitioner.

Learned APP has opposed the prayer for bail raising the issue of maintainability in view of provisions contained in Section 76(2) of the Act.

On consideration of rival submission and having regard to the Full Bench decision in the case of ***Ram Vinay Yadav vs. State of Bihar*** reported in ***2019(2) PLJR 1089*** this Court, for the limited purpose of grant of anticipatory bail, is inclined to accept the submissions advanced on behalf of the petitioner. The prayer of the petitioner for anticipatory bail is allowed.

In the event of arrest or surrender before the court below within four weeks from today, let the petitioners above named be released on bail on furnishing bail bonds of Rs.



10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of 2nd Additional Sessions Judge -cum- Special Judge, Excise, Saran at Chapra in Chapra Muffasil PS Case No. 391 of 2019 subject to all conditions as laid down in Section 438(2) of the Criminal Procedure Code 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 in the trial and if he fails to do so on two consecutive dates, his bail will be liable to be cancelled.

(Madhuresh Prasad, J)

SNkumar/-

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

