

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26188 of 2020

Arising Out of PS. Case No.-669 Year-2019 Thana- GOVERNMENT OFFICIAL COMP.
District- Gaya

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RAJDEO SAHU @ RAJDEO SAH Son of Late Ramchandra Sahu Resident
of Mohalla- Jagannathpur near Jagarnath Mandir, P.S.- Dhurwa, District-
Ranchi (Jharkhand)

... .. Petitioner/s

Versus

THE STATE OF BIHAR Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Binay Kant Mani Tripathi, Advocate
For the Opposite Party/s : Mr. Jai Narain Thakur, APP

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

3 19-01-2021 Heard learned Counsel for the petitioner and the learned
Counsel for the State.

Petitioner apprehends arrest in Excise PS Case No. 669 of
2019 registered under Section 30(a) of Bihar Prohibition and Excise
Act, 2016 IPC.

Six drums containing total 200 liters of illicit wine is
alleged to have been recovered from a vehicle. The driver of the
vehicle has disclosed that the same stands in the name of the
petitioner.

Learned Counsel for the petitioner submits that based on
agreement (Annexure 3 of the petition) the vehicle had already been
given to the said driver (co-accused) for a year on hire to run it for
transportation of fruits. The petitioner therefore cannot in any manner
be held liable for recovery made from the vehicle in question, which
was being used by the driver on the basis of such agreement. The
petitioner's implication therefore is unsustainable. The petitioner is
also not alleged to be consignor or consignee of the illicit liquor in
question and has no criminal antecedent. In view of the facts and
circumstances above no case whatsoever would be made out under
the provisions of Bihar Prohibition and Excise Act.



Learned APP 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 submissions and the facts, this Court, in view of the parameters for considering pre-arrest bail laid down in the case of Ram Vinay Yadav vs. State of Bihar reported in 2019 PLJR (2) 1089 (FB), is inclined to accept the submission made 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 arrest or surrender before the court below within four weeks from today, 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 Special Judge Excise, Gaya in Excise PS Case No. 669 of 2019 subject to all conditions as laid down in Section 438(2) of the Criminal Procedure Code as 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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