

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.27018 of 2020

Arising Out of PS. Case No.-16 Year-2020 Thana- MARANCHI District- Patna

Abhishek Kumar, Son of Shri Mukesh Singh Nayak, Resident of Village-Sherpur, P.S.- Maranchi, District- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Murari Narain Chaudhary, Advocate
For the Opposite Party/s : Mr. Bhanu Pratap Singh, APP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

4 27-01-2021 Heard learned counsel for the petitioner and the learned APP for the State.

The petitioner is apprehending his arrest in connection with Maranchi (Panchmalla O.P.) P.S. Case No.16 of 2020/G.R. No.1240 of 2020 registered for the offence punishable under Section 30(a) of the Bihar Prohibition and Excise Act, 2016.

74.1 litres Indian Made Foreign Liquor is alleged to have been recovered from a vehicle allegedly belonging to the petitioner.

The petitioner's counsel submits that the petitioner, even as per the prosecution case, was not in the vehicle. There is no recovery from the petitioner's possession. Recovery is from the vehicle being plied by a Driver. The petitioner in the



circumstances cannot be held responsible for the recovery. The petitioner has no criminal antecedents and even if it is alleged that the vehicle was carrying IMFL, at best criminal responsibility for the recovery would rest on the Driver. No offence whatsoever would be made out under the Bihar Prohibition and Excise Act against the petitioner.

Learned APP for the State 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 rival submissions and the facts, this Court, in view of the parameters for considering pre-arrest bail laid down by a Full Bench of this Court in the case of ***Ram Vinay Yadav vs. State of Bihar***, reported in ***2019(2) PLJR 1089(FB)***, is inclined to accept the submissions advanced 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 his arrest or surrender before the court below within a period of four weeks from today, be released on bail on furnishing bail bond of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the learned



Special Judge, Excise, Patna, in connection with Maranchi (Pachmahola O.P.) P.S. Case No.16 of 2020/G.R. No.1240 of 2020, subject to the conditions as laid down in Section 438(2) of the Code of Criminal Procedure 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 and if he fails to do so on two consecutive dates, his bail bond will be liable to be cancelled.

This Court would expect that the petitioner's counsel would honour his undertaking in the instant proceedings regarding supply of the requisite court fee etc. within two weeks from the date he is called upon to do so by the office.

(Madhuresh Prasad, J)

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