

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.27042 of 2020

Arising Out of PS. Case No.-48 Year-2020 Thana- SIMRI District- Darbhanga

=====

AMIT SINGH Son of Sushil Prasad Singh Resident of Village- Bharathi,
Police Station- Simri, District- Darbhanga.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr.Pramod Kumar Singh, Adv.

For the Opposite Party/s : Mr. Dilip Kumar APP

=====

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

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

Learned counsel for the petitioner is expected to honor his undertaking given in the instant case for depositing the requisite court fee and to remove the defects as pointed out by office when called upon.

Petitioner apprehends his arrest in connection with GO (Excise) Case No 306 of 2020 arising out of Simri PS Case No 48 of 2020 instituted for the offence under Section 30(a) of the Bihar Prohibition and Excise Act, 2016.

The FIR alleges that acting on information regarding illegal liquor trade the police persons have reached near a hut from which two persons have fled away. The two persons have been identified subsequently by local persons leading to



implication of the instant petitioner.

It is submitted by the petitioner's counsel that the recovery of 20.16 liters of illicit liquor even as per prosecution case is from a hut. It is nobodies case that the hut belongs to the petitioner and hut was having general public access. There is no forensic opinion sustaining the allegation of the recovered substance being an intoxicant. The circumstances do not make out a case against the petitioner for the offence 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 and submitted that pre-arrest bail would not be maintainable.

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 before the court below, named above, 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 Additional Sessions Judge-cum-Special Judge Excise Act, Darbhanga, in connection with GO (Excise) Case No 306 of 2020 arising out of Simri PS Case No 48 of 2020, 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	
---	--	---	--

