

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23843 of 2020

Arising Out of PS. Case No.-287 Year-2019 Thana- BEGUSARAI MUFFASIL District-
Begusarai

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BHUSHAN ROY @ CHANDRA BHUSHAN RAY Son of Late Giro Ray
Resident of Village - Rajaura, P.S.- Muffasil, District - Begusarai

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Sandip Kumar Gautam, APP

For the Opposite Party/s : Mr. Mukesh Kumar Singh, APP.

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

3 18-01-2021

At the very outset learned Counsel for the petitioner submits that on account of typographical error instead of 75 years, age of the petitioner has wrongly been written as 55 years in the cause title.

Heard learned Counsel for the petitioner and the learned Counsel for the State.

Petitioner apprehends arrest in Muffasil PS Case No. 287 of 2019 registered under Section 30(a) of Bihar Prohibition and Excise Act, 2016 IPC.

Recovery of 573.58 liters Indian made Foreign Liquor from the fields allegedly owned by one Bhusan Roy son of Ram Jatan Rai has led to implication of the petitioner in this case.

Learned Counsel for the petitioner submits that the petitioner's name is also Bhusan Roy, however, he is son of Late Ziro Ray and therefore the petitioner cannot be held liable for the recovery from the field. Subsequently during investigation the petitioner's name has been added in the instant case as an accused in stead of Bhushan Roy son of Ram Jatan Roy. It is submitted that even if for the sake of argument it is accepted that the fields were belonging to this petitioner then also such recovery from the field having general public access, cannot cast any criminal liability against the petitioner as place of recovery was having access by one and all. In view of the facts and circumstances above no case whatsoever would be made out under the provisions of Bihar Prohibition and Excise Act. The



petitioner has also clean past.

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 2nd Additional Sessions Judge -cum- Special Judge, Excise Act, Begusarai in Muffasil PS Case No. 287 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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