

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23738 of 2020

Arising Out of PS. Case No.-50 Year-2020 Thana- KARJA District- Muzaffarpur

Umesh Sahni Son of Late Sakal Sahni Resident of Village - Barkagaon, P.S. -
Karja, District - Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shashi Bhushan Kumar Manglam Advocate
For the Opposite Party/s : Mr. Iftekhar Mahmood APP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

4 15-01-2021 Heard learned counsel for the petitioner and the learned APP
for State.

Learned counsel for the petitioner is expected to honour 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 arrest in connection with Karja PS Case No 50 of 2020 instituted for the offence under Section(s) 272 and 273/34 of the Indian Penal Code and Section 30 of the Bihar Prohibition and Excise Amendment Act, 2018.

On secret information, the police have allegedly recovered 180 litres of Indian Made Foreign liquor from house of co-accused Bhola Rai. The petitioner's implication is on the basis of such secret information that the petitioner, namely, Umesh Sahni and co-accused, namely, Roshan Kumar and Arun Rai are the Mafia supplying the illicit liquor.

Learned counsel for the petitioner submits that co-accused, namely, Arun Rai has already been allowed anticipatory bail in Cr.



Misc No 24273 of 2020. The petitioner, being similarly situated, prays for grant of anticipatory bail on the ground of parity. Further submission is that since earlier he had been accused in a case under the Excise Act, his name has been dragged in this case only on such basis and suspicions. There is no recovery from the petitioner's person or his property so as to even indicate his role in the current offence. No offence whatsoever would be made out against the petitioner on the basis of allegations made.

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, named above, before the court below, 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 Special Judge, Excise Act, Muzaffarpur, in connection with Karja PS Case No 50 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)

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