

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28672 of 2020

Arising Out of PS. Case No.-84 Year-2020 Thana- CHANDI District- Bhojpur

SANJAY SINGH @ Sanjay Raj S/o Late Ramdat Singh Resident of Village-
Narahi, Police Station-Chandi, District-Bhojpur at Ara.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Shiv Prasad Gupta, Advocate
For the Opposite Party/s : Mr. Khurshid Anwar, APP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

3 20-01-2021 Heard learned Counsel for the petitioner and the learned
Counsel for the State.

A supplementary affidavit has been filed wherein a typographical error has been pointed out in the name of the petitioner. Learned Counsel for the petitioner submits that name of the petitioner in the school certificate document is 'Sanjay Raj'. It is submitted that 'Sanjay Raj' may be read as alias of 'Sanjay Singh' for the purpose of bail.

Learned Counsel for the petitioner is permitted to add 'Sanjay Raj' as the alias of the name of the petitioner in the instant proceeding. Let the same be affected in the order also.

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

Petitioner apprehends arrest in Chandi PS Case No. 84 of 2020 registered under Section 30(a) of Bihar Prohibition and Excise Act, 2016.

873 liters of illicit liquor has allegedly been recovered from the house of co-accused Lalu Pandey. It is alleged that the



petitioner and another co-accused Kariya Pandey have brought the same there.

Learned Counsel for the petitioner submits that there is no basis for the allegation that the petitioner has brought the illegal liquor there, even in the prosecution case no recovery has been made from the petitioner's house nor there is any recovery from the petitioner's person. The factual basis for the offence under the provisions of Bihar Prohibition and Excise Act is not made out as the even the recovered substance has not been sent to the FSL to determine whether the same was intoxicant liquor or not.

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 4th Additional Sessions Judge -cum- Special Judge, Excise, Bhojpur at Ara in Chandi PS Case No. 84 of 2020 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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