

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28669 of 2020

Arising Out of PS. Case No.-333 Year-2019 Thana- EKANGARSARAI District- Nalanda

Girijesh Kumar @ Girjesh Kumar @ Gaurav Kumar, S/o Kishori Sharma @
Awadh Kishore Sharma, Resident of Village-Ginjee, P.S.-Ghoshi, District-
Jehanabad.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. N.K. Agrawal, Sr. Advocate Mr. Ram Prawesh Kumar, Advocate Ms. Preety Kunwar, Advocate
For the Opposite Party/s	:	Mr. Md. Ataur Rahman, APP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

4 05-02-2021 Heard learned counsel for the petitioner and the
learned APP for the State.

The petitioner is apprehending his arrest in
connection with Ekangarsarai P.S. Case No.333 of 2019
registered for the offence punishable under Section 30(a) of the
Bihar Prohibition and Excise Act, 2016.

171 litres English wine is alleged to have been
recovered from a vehicle being driven by co-accused Karu
Singh. The vehicle has been traced to be in the name of the
petitioner.

It is submitted that the circumstances are such that
the petitioner cannot be saddled with the criminality of the



recovery at a time when the vehicle was being driven by another person. The petitioner has no knowledge and admittedly, the petitioner was not at the place of recovery or any recovery has been made from his property. The submission of Mr. N.K. Agrawal, learned Senior Counsel is that the petitioner has been implicated on account of his antecedents merely on suspicion whereas in the earlier cases, he is already on bail. The circumstances are such that 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 Additional District & Sessions Judge-III-Cum-Special Judge (Excise), Nalanda at Biharsharif, in connection with Ekangarsarai P.S. Case No.333 of 2019, 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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