

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30072 of 2020

Arising Out of PS. Case No.-47 Year-2020 Thana- KUDHNI District- Muzaffarpur

Manoj Rai @ Manoj Kumar, S/o Late Lagan Rai, R/o Village- Kataru
Fatehpur, Chakmaruf, P.S.- Vaishali (Belsar O.P.), District- Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Smt.Namrata Mishra, Advocate

For the Opposite Party/s : Smt. Pushpa Sinha, APP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

3 18-01-2021 Heard learned counsel for the petitioner and the
learned APP for the State.

The petitioner is apprehending his arrest in connection with Kurhani (Turki O.P.) P.S. Case No.47 of 2020 registered for the offence punishable under Sections 414 and 34 of the Indian Penal Code and Sections 30(a), 38(1) and 41(1) of the Bihar Prohibition and Excise Act, 2016

The petitioner is an accused for the offence under the Bihar Prohibition and Excise Act, based on recovery of huge quantity of illicit liquor from three trucks on NH-77.

As per the allegation, the petitioner is one among the five persons, who was supposed to guide one of the trucks in reaching its destination. This has been disclosed by the Driver of the truck.



Petitioner's counsel submits that even as per the allegation, the petitioner is neither the consignee nor the consignor of the illicit liquor. There is no recovery either from his possession nor from his property. Since earlier he was accused for an offence under the same Act, based on recovery of small quantity of 3 litres, his name has been dragged in this case as being one of the persons who was supposed to guide the truck in reaching to its destination. The facts and circumstances therefore are insufficient for making out an offence against the petitioner under the Bihar Prohibition and Excise Act.

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 Special Judge, Excise Court, Muzaffarpur, in connection with Kurhani (Turki O.P.) P.S. Case No.47 of 2020, 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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