

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31314 of 2020

Arising Out of PS. Case No.-135 Year-2020 Thana- KANTI THARMAL POWER District-
Muzaffarpur

=====

Dilip Sah, Son of Shivji Sah, Resident of Village- Sadatpur, P.S.- Kanti,
District- Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr.Arun Kumar, Advocate
For the Opposite Party/s : Ms. Pushpa Sinha, APP

=====

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 08-01-2021 Heard learned counsel for the petitioner and the
learned APP for the State.

The petitioner is apprehending his arrest in connection with Kanti P.S. Case No.135 of 2020 registered for the offence punishable under Section 30(A) of the Bihar Prohibition and Excise Act, 2018.

It is submitted by the petitioner's counsel that even as per the prosecution case, the recovery of the liquor is after digging the earth from beneath a hand-pump. The recovery is not from the petitioner's house or person. The recovery is from a place having general access, for which liability cannot be attributed to the petitioner. The offences under the Bihar Prohibition and Excise Act, in the facts and circumstances of the



case, cannot be made out 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 Special Judge, Excise Act, Muzaffarpur, in connection with Kanti P.S. Case No.135 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)

PNM

U		T	
---	--	---	--

