

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31305 of 2020

Arising Out of PS. Case No.-107 Year-2020 Thana- JAMOBABAZAR District- Siwan

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Brajesh Singh @ Barjesh Singh, Son of Late Thakur Singh, Resident of
Village - Rachho Pali, P.S.- Jamo Bazar, Distt.- Siwan

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Bipin Bihari Singh, Advocate

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

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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 Jamo Bazar P.S. Case No.107 of 2020 registered for the offence punishable under Sections 272, 273, 308/34 of the Indian Penal Code and Section 30(A) of the Bihar Prohibition and Excise Act, 2016.

Even as per the prosecution case, the police have recovered 4 litres country made liquor from a ditch in southern side of the petitioner's "*Dalaan*".

It is submitted by the petitioner's counsel that the recovery is not from the petitioner's house and that the same is from a ditch having general access, for which the petitioner cannot be held liable. On account of the antecedents of the



petitioner, he has been implicated in this case. It is further submitted that even from the ingredients of the F.I.R., the recovery not being from the petitioner's possession or property, offences under the Bihar Prohibition and Excise Act would not 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 2nd Additional Sessions Judge-Cum-Special Judge, Excise,



Siwan, in connection with Jamo Bazar P.S. Case No.107 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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