

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.9789 of 2021

Arising Out of PS. Case No.-473 Year-2020 Thana- CHAPRA MUFFASIL District- Saran

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1. Parmatma Kumar Yadav, aged about 42 years, Male, Son of Mahendra Yadav, Resident of Village - Balwan Tola, P.S.- Doriganj, District- Saran (Chapra)
 2. Manoj Kumar Singh, aged about 44 years, Male Son of Rameshwar Singh, Resident of Village - Kutubpur Kotwapatti, P.S.- Doriganj, District- Saran (Chapra).

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. B. N. Mishra, Advocate

For the Opposite Party/s : Mr. Satyendra Narayan Singh, APP

CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL ORDER

3 07-01-2022 Heard the parties through video conferencing.

Learned counsel for the petitioners submits that prayer for anticipatory bail on behalf of petitioner no. 1, namely Parmatma Kumar Yadav, has already dismissed as withdrawn vide order no. 2 dated 16.11.2021.

The petitioner no. 2 seeks bail in anticipation of his arrest in connection with Chapra Muffasil P.S. Case No. 473 of 2020 instituted for the offences punishable under Sections 467,468,471,420, 120(B) of the Indian Penal Code and Sections 30(a), 36 41(1) of the Bihar Prohibition and Excise Act.

So far as petitioner no. 2 is concerned, learned counsel points out that no recovery has been made from him nor he was the owner of the vehicle from which the liquor was

recovered. It is a case made out by the co-accused stating that the liquor was to be handed over to the petitioner no. 2, which clearly does not fall as a crime within Section 30(a) of the Act.

I have considered the submissions.

Taking into consideration the fact that neither the liquor was recovered from the petitioner no. 2 nor he was driver of the vehicle and merely on the basis of statement of co-accused, petitioner no. 2, cannot be made an accused, prima facie case under Section 30(a) is not made out and in view of the judgment passed in the case of **Ram Vinay Yadav Vs. The State of Bihar** reported as **2019 (2) PLJR 1089**, I am inclined to allow the petitioner No. 2, namely Manoj Kumar Singh, on bail, in the event of arrest he shall be released on anticipatory bail, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Sanjeev Prakash Sharma, J)

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