

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30285 of 2023

Arising Out of PS. Case No.-121 Year-2023 Thana- HISUWA District- Nawada

Jitendra Yadav @ Bhagat Ji @ Jitendra Prasad Son Of Shiva Prasad @ Shiva
Yadav Resident Of Village- Fulwria, Ps- Hisua, Distt- Nawada

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ajit Ranjan Kumar, Advocate
For the Opposite Party/s : Mrs.Pushpa Sinha, APP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 14-07-2023 Heard learned counsel for the petitioner and the
learned APP for the State.

2. The petitioner is apprehending his arrest in connection with Hisua P.S. Case No. 121 of 2023 registered for the offence punishable under Sections 30(a) / 41 of the Bihar Prohibition and Excise Act, 2016.

3. As per allegation, 175 litres of country-made liquor has been recovered, and it is alleged that the petitioner has fled away. He has been identified by *Chowkidar*.

4. Learned counsel for the petitioner submits that as a sequel to his earlier false implication in Hisua P.S. Case No. 381 of 2019 and Hisua P.S. Case No. 387 of 2019, both for offences under the Bihar Prohibition and Excise Act, 2016, the petitioner has been made accused in the instant case also. The



identification by local *Chowkidar* is unreliable. It is evident from the allegations that recovery is not made from the petitioner. Therefore, in absence of recovery of any intoxicant or liquor, offences under the Bihar Prohibition and Excise Act, 2016, is not made out.

5. The learned APP for the State has opposed the prayer for anticipatory bail, referring to the provisions contained in Section 76(2) of the Bihar Prohibition and Excise Act and submitted that pre-arrest bail would not be maintainable.

6. This Court is conscious of decision of the Full Bench in the case of *Ram Vinay Yadav vs. State of Bihar* reported in *2019(2) PLJR 1089*. Having regard to the law laid down in the said judgment and the submissions advanced on behalf of the petitioner, this Court, for the limited purpose of grant of anticipatory bail, is inclined to accept the submissions of counsel for the petitioner. Prayer for bail is allowed.

7. 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 Exclusive Special Excise Judge, 1st Nawada, in connection



with Hisua P.S. Case No. 121 of 2023, subject to the conditions as laid down in Section 438(2) of the Code of Criminal Procedure with 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.

(Madhuresh Prasad, J)

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