

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37439 of 2023

Arising Out of PS. Case No.-192 Year-2023 Thana- MOTIHARI MUFASIL District- East
Champaran

=====

Shamu Mukhiya Son Of Krishna Mukhiya Resident Of Village - Hasuuaha,
P.S. - Muffasil, District - East Champaran

... .. Petitioner/s

Versus

The State Of Bihar, Patna

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr.Brajesh Kumar Singh , Advocate
For the Opposite Party/s : Mr.Sanjay Kumar Pandey, APP

=====

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

- 2 28-07-2023 1. Heard learned counsel for the petitioner and the
learned APP for the State.
2. The petitioner is apprehending his arrest in
connection with Muffasil P.S. Case No. 192 of 2023 registered
for the offence punishable under Sections 30(a)(c), 32 and 41(i)
of the Bihar Prohibition and Excise (Amendment) Act, 2018 of
the Indian Penal Code.
3. From the thatched hut of the petitioner, there is
alleged recovery of nearly 4 litres of country made liquor from a
transparent polythene.
4. The learned counsel for the petitioner submits that
the thatched hut has no door. The petitioner was not present at
the time of recovery. The petitioner denies and disputes the



allegations as the hut was accessible to one and all. In these circumstances, he submits that for the purpose of grant of anticipatory bail, the Court should consider that no offence is made out under the Bihar Prohibition and Excise Act.

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. 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 allow the prayer for anticipatory bail.

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 Court No. 1, East Champaran at Motihari in connection with Muffasil P.S. Case No. 192 of 2023, 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.

(Madhuresh Prasad, J)

SUMIT/-

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

