

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41707 of 2023

Arising Out of PS. Case No.-380 Year-2023 Thana- HAJIPUR SADAR District- Vaishali

Manoranjan Kumar @ Manu Kumar Son of Parmendra Rai @ Parmendra Kumar Resident of village - Lalpokhar Dighi, P.S. - Hajipur Sadar, Distt. - Vaishali

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Mahendra Thakur, Adv

For the Opposite Party/s : Mr.Upendra Kumar, APP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

3 06-09-2023 Heard learned counsel for the petitioner and the learned APP for the State.

2. The petitioner is apprehending his arrest in connection with Hajipur Sadar P.S. Case No. 380 of 2023 registered for the offence punishable under Section 30 (a) of Bihar Prohibition and Excise Act, 2016.

3. The petitioner's father Parmendra Rai, as per allegation in the FIR, was informed to be trading in liquor from his house. The police parties reached the place of occurrence, where he has been apprehended and it is alleged that some persons fled away. The petitioner has been named to be one of the persons, who fled away.

4. Learned counsel for the petitioner submits that



even as per prosecution case, the information was regarding selling of liquor by petitioner's father and not by the petitioner. The petitioner's identification is nothing more than a suspicion because he happens to be son of Parmendra Kumar @ Parmendra Rai. The total recovery from the house where liquor is said to have been sold is 9.750 litres. The petitioner, in the circumstances, is apprehending his arrest even though it is not alleged that there is any recovery from the petitioner and the facts and circumstances are such that no offence is made out under the provisions of Bihar Prohibition and Excise Act, against the petitioner.

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 purposes of grant of bail, is inclined to accept the submissions advanced by the petitioner's counsel. 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 Court No. 1-cum-Additional District and Sessions Judge, Vaishali at Hajipur in connection with Hajipur Sadar P S Case No. 380 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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