

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48791 of 2023**

Arising Out of PS. Case No.-223 Year-2023 Thana- MALSALAMI District- Patna

Shailesh Kumar Son Of Parkshit Singh @ Parikshit Singh Resident Of Patna
Collegiate School, Dariyapur, Bankipur, Ps- Kadam Kuan, Dist- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Rajesh Kumar Chaubey, Adv.

For the Opposite Party/s : Mr.Indu Kumari Srivastava, APP

**CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER**

2 11-08-2023 Heard learned counsel for the petitioner and the
learned APP for the State.

2. The petitioner is apprehending his arrest in connection with Malsalami PS Case No. 223 of 2023, dated 23-03-2023, registered for the offence punishable under Sections 30 (a) of the Bihar Prohibition and Excise Amendment Act, 2022.

3. 8.25 liters of illicit Indian Made foreign liquor has been recovered from the petitioner's motorcycle.

4. It is submitted by the petitioner's counsel that the motorcycle has been borrowed by some relatives. Recovery from the motorcycle *per se* is no indication of the petitioner's involvement and the recovery cannot be attributed to the petitioner. The petitioner bears a clean past and even as per



prosecution case, he was neither seen near the motorcycle nor there is any recovery from him.

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 Special Judge, Patna City, in connection with Malsalami PS Case No. 223 of 2023, dated 23-03-2023, 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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