

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48797 of 2023

Arising Out of PS. Case No.-70 Year-2023 Thana- ANDHRAMATH District- Madhubani

Bhulan Mandal @ Brajnandan Mandal @ Brajnandan Kumar Mandal Son Of
Bhagwat Mandal Resident Of Village- Dakhi, Ps- Andhramath, Dist-
Madhubani

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Jitendra Kumar Bharti, Adv.

For the Opposite Party/s : Mr.Tarkeshwar Nath Thakur, 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 Andhramath P.S. Case No. 70 of 2023, dated 09-05-2023, giving rise to GR No. 318 of 2023, registered for the offence punishable under Sections 272,273,414/34 of the IPC and Section 30(a) of the Bihar Prohibition and Excise Act, 2016.

3. There is alleged recovery of 153 liters 900 ML *Nepali* liquor from two motorcycles.

4. Learned counsel for the petitioner submits that merely because one of the motorcycles stands in the petitioner's name, he has been implicated by alleging his



implication in the statement of the co-accused. He has no criminal antecedents. The nature of allegation and the fact that he was not even at the place of occurrence is sufficient to conclude that no offence under the Bihar Prohibition and Excise Act would be made out 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 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, Excise Act, Jhanjharpur, Madhubani, in



connection with Andhramath P.S. Case No. 70 of 2023, dated 09-05-2023, giving rise to GR No. 318 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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