

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48796 of 2023

Arising Out of PS. Case No.-1593 Year-2022 Thana- PHULWARISHARIF District- Patna

SUDAMA KUMAR Son of Sri Anil Singh R/v- Sona Gopalpur, Sampatchak,
P.S.- Gopalpur, Distt.- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Vijay Kumar Sinha, Adv.

For the Opposite Party/s : Mr. Bharat Lal, 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 Phulwarisharif (Janipur) P.S. Case No. 1593 of 2022, Special Case No. 8913 of 2022 dated 20-12-2022, registered for the offence punishable under Sections 30(a) of the Bihar Prohibition and Excise Act.

3. 60 liters of illicit *Mahua* wine has been recovered from the vehicle, which belongs to the petitioner.

4. Learned counsel for the petitioner submits that as per prosecution case, the petitioner was not present in the vehicle and his name has been disclosed by the person who was apprehended with the illicit liquor. He has no criminal antecedents. The nature of implications, as per prosecution



case, is clear indication of the fact that the 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, Patna, in connection with Phulwarisharif (Janipur) P.S. Case No. 1593 of 2022, Special Case No. 8913 of 2022 dated 20-12-2022, 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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