

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.62474 of 2023

Arising Out of PS. Case No.-263 Year-2021 Thana- KHARIK District- Bhagalpur

MURARI PRASAD SAHU, S/O Baldeo Sahu, R/O Village- New Madukam
Swarn Jayanti Nagar, P.S- Sukhdev Nagar, Distt.- Ranchi (Jharkhand).

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner : Mr. Sudhir Kumar Sinha, Advocate
For the State : Mr. Mritunjay Kumar Nirala, APP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 16-10-2023 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor (for brevity 'APP') appearing for
the State of Bihar.

2. The petitioner is apprehending his arrest in connection with Kharik P.S. Case No. 263 of 2021 registered for the offence punishable under Sections 30(a), 36 and 41(a) of the Bihar Prohibition and Excise Amendment Act, 2018.

3. As per prosecution case, during checking, vehicles were being detained for recovery of illicit liquor. 2661.750 liters illicit liquor has been recovered from a truck, ownership of which has been traced to the petitioner.

4. Learned counsel for the petitioner submits that from the FIR it is obvious that the truck was carrying stone chips. The driver apparently has concealed liquor, for which the



petitioner cannot be fastened with any liability. The circumstances are such that no case would be made out against the petitioner. There is no alleged recovery from his possession and he has clean antecedents.

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 Amendment 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 upon consideration of the rival submissions, this Court, for the limited purpose of grant of anticipatory bail, is inclined to accept the submissions of learned counsel for the petitioner as the FIR itself discloses that the truck was laden with stone chips. The petitioner also has no antecedents which is an indication of the lack of propensity on part of the petitioner to commit such offence in future. The court, therefore, is inclined to allow the prayer.

7. Petitioner's prayer for anticipatory bail is allowed.

8. 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 Addl. Sessions Judge- IX, Bhagalpur, in connection with Kharik P. S. Case No. 236 of 2021, 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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