

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61168 of 2023

Arising Out of PS. Case No.-98 Year-2023 Thana- WARISNAGAR District- Samastipur

Rajan Chaudhary, Son Of Ram Nihora Chaudhary, R/O village Shripur Gahar
P.S.- Khanpur, District- Samastipur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sheo Kumar Prasad, Advocate

For the Opposite Party/s : Mr. Anil Prasad Singh, APP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 16-10-2023 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. The petitioner is apprehending his arrest in connection with Warisnagar P.S. case No. 98 of 2023 registered for the offence punishable under Section 30(a) of the Bihar Prohibition and Excise Act, 2016.

3. There is recovery of 855.360 liters from a pick-up van and 2655 liters illicit liquor from a truck. The F.I.R. has been lodged based on such recovery which is preceded by secret information regarding the liquor being procured by named accused persons including the petitioner.

4. Learned counsel for the petitioner submits that from the narration of F.I.R. itself, it is obvious that there is no material basis for attributing the recovery to the petitioner. It is



only based on antecedents of the petitioner, four in number, of offences other than the Bihar Prohibition and Excise Act that he has been implicated in the instance case. Co-accused Baidhnath Ray @ Vaidhnath Ray has been allowed anticipatory bail vide order dated 07.08.2023 passed in Cr. Misc. No. 36831 of 2023. No case is 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, considering the rival submissions, the manner of petitioner's implication, the fact that the antecedents are not of offence under the Bihar Prohibition and Excise Act, 2016 and the petitioner's claim based on parity, this Court, for the limited purpose of grant of anticipatory bail, is inclined to accept the submissions of learned counsel for the petitioner.

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 Special Judge, Excise Court No. 02, Samastipur, in connection with Warisnagar P.S. case No. 98/2023, 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)

Pankaj/-

U		T	
---	--	---	--

