

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.63829 of 2023

Arising Out of PS. Case No.-311 Year-2023 Thana- KOTWALI District- Munger

Sumit Kumar, Son of Chandra Shekhar Yadav R/o vill - Kalyanchak, P.S. -
Mufassil And Distt. - Munger

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Buddhi Lal Yadav

For the Opposite Party/s : Mr.Mukesh Kumar Singh

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 17-10-2023 1. Heard learned counsel for the petitioner and the
learned APP for the State.

2. Learned counsel for the petitioner at the very outset
submits that due to an inadvertent typographical error, Section
414 IPC could not be mentioned in paragraph 1 of the bail
application. He is permitted to add the section.

3. The petitioner is apprehending his arrest in
connection with Kotwali (Purabsarai) P.S. Case No. 311 of 2023
registered for the offence punishable under Section 414 of the
Indian Penal Code and Section 30(a) and 32 of the Bihar
Prohibition and Excise Act.

4. Five persons were dealing in trade of illicit liquor.
Three persons have been apprehended, while two, as per
allegation, have fled away. The exercise has resulted in the



recovery of 72 litres of illicit country liquor in a gunny bag on a motorcycle. Two co-accused, Sahil and Gaurav Kumar, have named the petitioner to be one, who fled away from the place of recovery.

5. The learned counsel for the petitioner submits that on account of his earlier implication in Mufassil Munger P.S. Case No. 122 of 2023, his name has been dragged in the instant case by the police by incorporating him in statement of co-accused, recorded in custody. The petitioner has no concern with or knowledge about the alleged recovery, and there is no recovery from his property/premises. The motorcycle also does not belong to him. The facts, as stated in the FIR, when considered, are sufficient to conclude for the purposes of grant of anticipatory bail that no offence is made out under the Bihar Prohibition and Excise Act.

6. 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.

7. Considering the rival submissions, the manner of petitioner's implication based on statement of co-accused, the fact that motorcycle does not belong to the petitioner, this Court,



in view of the parameters for considering pre-arrest bail laid down by a Full Bench of this Court in the case of ***Ram Vinay Yadav vs. State of Bihar***, reported in ***2019 (2) PLJR 1089 (FB)***, for the limited purpose of grant of anticipatory bail, is inclined to accept the submissions of learned counsel for the petitioner.

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

9. 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 Exclusive Special Judge, Excise-II, Munger, District-Munger in connection with Kotwali (Purabsarai) P.S. Case No. 311 of 2023, subject to the conditions as laid down in Section 438(2) of the Code of Criminal Procedure as also subject to the 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)

SUMIT/-

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

