

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61214 of 2023

Arising Out of PS. Case No.-424 Year-2023 Thana- SARAIYA District- Muzaffarpur

Arvind Kumar S/O Satyanarayan Bhagat R/O Village- Bibhutipur, P.S-
Bibhutipur, Distt.- Samastipur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Nitu Kumari, Adv.

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

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

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

2. The petitioner is apprehending his arrest in connection with Saraiya P. S. Case No. 424 of 2023, registered for the offence punishable under Sections 272, 273, 420,120(b), 34 of the Indian Penal Code and Sections 30(a), 32(2), 32(3), 33,36,41(1),41(a) of the Bihar Prohibition and Excise Act.

3. As per allegation, there is recovery of 300 liters spirit from a Bolero which was stopped after a chase. Driver of the Bolero vehicle, namely, Deppan Rai was arrested from the vehicle and one Rahul Kumar, on motorcycle, was said to be guiding the Bolero in carrying the spirit.

4. Learned counsel for the petitioner submits that being owner of the motorcycle, the petitioner has been made an



accused. He has no knowledge as to why the motorcycle was being driven in guiding the Bolero by Rahul Kumar who had borrowed the motorcycle from the petitioner. Having no criminal antecedents, he has become victim of the circumstance and 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 and the submissions advanced on behalf of the petitioner as also the fact that there being no recovery from the petitioner, clean antecedents as also the manner of petitioner's implication by virtue of ownership of the motorcycle in-question, 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 Exclusive Spl. Judge, Excise Court No. II, Muzaffarpur, in connection with Saraiya P. S. Case No. 424 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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