

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.63764 of 2023

Arising Out of PS. Case No.-146 Year-2021 Thana- NIRMALI District- Supaul

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Bhavesh Yadav @ Bhola Yadav @ Bhavesh Kumar Yadav @ Bhola Yadav
Son Of Dileshwar Yadav Resident Of Village - Kyotapatti Rasuar Ward No.2,
P.S. - Supaul Nadi, District - Supaul

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Kamal Kishore Singh, Advocate

For the Opposite Party/s : Mr. Raj Ballabh Singh, APP

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

3 18-10-2023 Heard learned counsel for the petitioner and the learned
Additional Public Prosecutor (for brevity 'APP') for the State.

2. The petitioner is apprehending his arrest in connection with Nirmali P.S. Case No. 146 of 2021 registered for the offence punishable under Sections 30 (a) of the Bihar Prohibition and Excise Act, 2018.

3. One thousand four hundred sixty four (1464) litres of illicit liquor has been found on a truck. Some persons fled away in the darkness of the night. Petitioner has been identified by locals, as one who was fleeing away.

4. Learned counsel for the petitioner submits that on suspicion, the name of the petitioner was dragged in this case, due to his criminal antecedents. He has no knowledge or



concern with the alleged recovery. Petitioner has also no concern with the truck or the premises where the truck was parked. The nature of implication, as per prosecution case, is clear indication of the fact that no offence, under the Bihar Prohibition and excise Act, would be made out against the petitioner.

5. 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, the fact that petitioner has no concern with the truck or the premises where it was parked, 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 bonds of Rs.10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of learned Additional District and Sessions Judge, Exclusive Special Excise, Court No. II, Supaul, in connection with Nirmali P.S. Case No. 146 of 2021, subject to the following conditions:

(i) That one of the bailors of each of the petitioner will be a close relative of the petitioner who will give an affidavit giving genealogy as to how he is related with the petitioner concerned. The bailors 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 bonds will be liable to be cancelled.

(Madhuresh Prasad, J)

Raj kishore/-

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