

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.63919 of 2023

Arising Out of PS. Case No.-64 Year-2022 Thana- NAUTAN District- Siwan

Jang Bahadur Sah S/O Ramjit Sah R/O Village- Pipra Khas, P.S- Mirganj,
Distt.- Gopalganj.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Bijay Prakash Singh, Advocate

For the Opposite Party/s : Mr.Choubey Jawahar, APP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 17-10-2023 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. The petitioner is apprehending his arrest in connection with Nautan P.S. case No. 64 of 2022 registered for the offence punishable under Section 30(a) of the Bihar Prohibition and Excise Act, 2016.

3. 45 liters illicit liquor has been recovered from co-accused Anil Kumar, who was driving a motorcycle, ownership of which has been traced to the petitioner.

4. Learned counsel for the petitioner submits that the petitioner's motorcycle was earlier stolen and the petitioner has become victim of the circumstance where the motorcycle has been recovered with alleged illicit liquor about which he has no knowledge whatsoever. He is having a fair antecedent.



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. He further submits that there is no F.I.R. for the motorcycle being stolen as per the submission of the petitioner's counsel.

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, the rival submissions advanced on behalf of the petitioner and nature of recovery, 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 Exclusive Special Excise Court No.-II, Siwan, in connection with Nautan P.S. case No. 64 of 2022, 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 his bail bond will be liable to be cancelled.

(Madhuresh Prasad, J)

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