

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.63655 of 2023

Arising Out of PS. Case No.-290 Year-2023 Thana- JAYNAGAR District- Madhubani

Satto Mukhiya Son Of Amiri Mukhiya Resident Of Village - Jaynagar Bazar
Samiti, Ghatama Tol, Police Station - Jaynagar, District - Madhubani

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Shailendra Kumar Jha, Adv

For the Opposite Party/s : Mr.Nitya Nand Tiwary, APP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 16-10-2023 1. Heard learned counsel for the petitioner and the
learned APP for the State.

2. The petitioner is apprehending his arrest in
connection with Jay Nagar P.S. Case No. 290 of 2023 registered
for the offence punishable under Sections 272, 273 and 34 of the
Indian Penal Code and Section 30(a) of Bihar Prohibition and
Excise Act.

3. There is a alleged trade of Nepali country liquor by
some named accused persons, including the petitioner, who have
concealed the liquor in the bushes near the field of Bhogendera
Yadav. Based on such secret information, the police has arrived
at the place to recover 150.300 liters of illicit liquor.

4. That learned counsel for the petitioner submits that
the petitioner has been named in this case only because earlier



he was made an accused in Jay Nagar P.S. Case No.444 of 2022. Recovery is from the bushes in the open, accessible to one and all, for which there is no basis to saddle criminal liability on the petitioner. The manner in which the recovery has been made is indicative of the fact that no case whatsoever can be made out against the petitioner for the offences under the Bihar Prohibition and Excise Act.

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. Considering the rival submissions, the legal position as per decision of the full bench in the case of ***Ram Vinay Yadav vs. State of Bihar***, reported in ***2019 (2) PLJR 1089 (FB)***, as also the manner of occurrence, and recovery from an open place, the Court is inclined to accept the submissions advanced on behalf of the petitioner and expresses satisfaction that the conditions exist for grant of anticipatory bail.

7. Prayer for bail of the petitioner 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 Additional Sessions Judge-II, Cum-Special Judge, Excise Act, Madhubani, in connection with Jay Nagar P.S. Case No. 290 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	
---	--	---	--

