

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.64833 of 2023

Arising Out of PS. Case No.-130 Year-2023 Thana- DEWARIA District- Muzaffarpur

Md. Lallu @ Lalu Khan son of Md. Samim @ Md. Lale Village- Etawa Ps-
Pakari Dayal Dist- East Champaran at Present Village- Budhanpur Ps- Deoria
Dist- Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Manoj Kumar, Adv.

For the Opposite Party/s : Mr.Pramod Kumar Pandey, APP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 18-10-2023 Heard learned counsel for the petitioner and the
learned APP for the State.

2. The petitioner is apprehending his arrest in connection with Deoria PS Case No. 130 of 2023, registered for the offence punishable under Sections 272 and 273 of the Indian Penal Code and Section 30(a) of the Bihar Prohibition and Excise Act.

3. There is alleged recovery of 39 liters beer from the house of the co-accused, namely Md. Ibrahim (petitioner's maternal grand father). The petitioner has been implicated upon alleged identification by the local 'Chowkidar' while he was fleeing away from the place of recovery.

4. It is submitted by the petitioner's counsel that such



identification, at best, would give rise to a suspicion and cannot be made the basis to conclude that any offence against the petitioner under the Bihar Prohibition and Excise Act is made out. He also has no criminal antecedents.

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, 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 Special Judge, Excise Court-II, Muzaffarpur, in connection with Deoria PS Case No. 130 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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