

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.63863 of 2023

Arising Out of PS. Case No.-391 Year-2023 Thana- KATIHAR NAGAR District- Katihar

Abdul Mahajan, son of Late Noor Alam Village- Bharsiya Islampur Ps- Falka
Dist- Katihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Bimal Kumar, Advocate

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

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 17-10-2023 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 Nagar Sahayak P.S. Case No. 391 of 2023 registered for the offence punishable under Sections 30 (a) of the Bihar Prohibition and Excise Act, 2016.

3. From the motorcycle, one 'Santosh Kumar Mandal' was apprehended along with twenty eight (28) litres of country made illicit liquor. Ownership of the motorcycle is traced to the petitioner.

4. Learned counsel for the petitioner submits that the motorcycle was borrowed by his friend. He has no knowledge about illicit liquor being carried on the same. Petitioner has no criminal antecedents. The nature of implication, as per



prosecution case, is clear indication of the fact that the 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, 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, Katihar, in connection with Nagar Sahayak P.S. Case No. 391 of 2023, 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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