

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.64824 of 2023

Arising Out of PS. Case No.-191 Year-2023 Thana- SHEOHAR District- Sheohar

MADAN KUMAR @ MADAN RAI S/o- LATE NAGENDRA RAI Village-
Sundarpur Kharauna Ps- Sheohar Dist- Sheohar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mrs.Rina Sinha, APP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

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

2. The petitioner is apprehending his arrest in connection with Sheohar P.S. case No. 191 of 2023 registered for the offence punishable under Section 30(a) of the Bihar Prohibition and Excise Act, 2016.

3. The police have proceeded to verify information regarding illicit liquor being stored at the house of co-accused Sunil Kumar. The same has led to recovery of 724.68 liters of Indian Made Foreign Liquor (IMFL).

4. Learned counsel for the petitioner submits that the petitioner is father of Sunil Kumar. Having no antecedents, he has been made an accused on alleged statement of Niraj Kumar, his younger son, who was apprehended from the place. Sunil



Kumar is the elder son of the petitioner and he is residing in the same house. The petitioner, thus, has become victim of circumstance having no antecedents. He cannot be held responsible for recovery, if at all, made from the house, which fact is denied. In the circumstances, no case under the Bihar Prohibition and Excise Act would be made out.

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, the rival submissions, the provision referred to by the learned A.P.P., this Court would find that the conditions exist for grant of anticipatory bail in terms of the provision of the Act and judgment of the Full Bench.

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 Judge, Excise, Sheohar, District- Sheohar in connection with Sheohar P.S. case No. 191/2023 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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