

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.64726 of 2023

Arising Out of PS. Case No.-395 Year-2023 Thana- BARUN District- Aurangabad

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ASHOK KUMAR @ GANDHI, S/o RAJENDRA SINGH R/o vill - Karma
Pipra, P.S. - Jamhore, Distt. - Aurangabad at present resident of Vill -
Kochadh, P.S. - Barun, Distt. - Aurangabad

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner : Mr. Bhaskar Shankar, Advocate
For the State : Ms. Sucheta Yadav, APP

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

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

Additional Public Prosecutor (for brevity 'APP') appearing for

the State of Bihar.

2. The petitioner is apprehending his arrest in
connection with Barun P.S. Case No. 395 of 2023 registered for
the offence punishable under Section 30(a) of the Bihar
Prohibition and Excise (Amendment) Act, 2018.

3. As per prosecution case, there is recovery of 160.25
liters of illicit liquor from the petitioner's residential premises.

4. Learned counsel for the petitioner submits that the
petitioner, even as per allegation, was not present at the time and
place of recovery. The allegation is false and the liquor has
been recovered elsewhere but planted in the petitioner's house.



He has no criminal antecedents. No case is made out against the petitioner.

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 considering the rival submissions, nature of allegations and clean antecedents of the petitioner, this Court finds that the conditions for grant of anticipatory bail exists. The court, therefore, is inclined to allow the prayer for bail.

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 Special Judge Excise, Court No. 1, Aurangabad, in connection with Barun P.S. Case No. 395 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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