

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.65725 of 2023

Arising Out of PS. Case No.-96 Year-2020 Thana- WAJIRGANJ District- Gaya

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GORELAL YADAV @ GORELA YADAV @ SUMAN RAJ Son of Ram Prasad @ Prasad Yadav @ Prasadi Yadav @ Ram Prasad Yadav R/o vill - Mangrawan, P.s. - Wazirganj, Dist. - Gaya

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Ajay Kumar Sinha, Adv

For the Opposite Party/s : Mr.Tarkeshwar Nath Thakur, APP

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 18-10-2023 1. Heard learned counsel for the petitioner and the learned APP for the State.

2. The petitioner is apprehending his arrest in connection with Wazirganj P.S. Case No. 96 of 2020 registered for the offence punishable under Section 30(a) of the Bihar Prohibition and Excise Act.

3. There is alleged recovery of 40 litres illicit liquor in two containers from the petitioner's house.

4. Learned counsel for the petitioner submits that the prosecution case is false. No such recovery was made. The petitioner, even as per prosecution case, was not present at the time and place of recovery. There is no earlier case against the petitioner for offenses under the Bihar Prohibition and Excise



Act, though he was implicated in cases under the SC/ST Act falsely. In fact, no such recovery has been made from the petitioner and the ingredients of the offence under the Bihar Prohibition and Excise Act would not be made up 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. Considering the rival submissions, nature of allegations and the manner in which the petitioner has been implicated, this Court, in view of the parameters for considering pre-arrest bail laid down by a Full Bench of this Court in the case of *Ram Vinay Yadav vs. State of Bihar*, reported in **2019 (2) PLJR 1089 (FB)**, for the limited purpose of grant of anticipatory bail, is inclined to accept the submissions of learned counsel for the petitioner.

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 Excise Court No. 01, Gaya, in connection with Wazirganj P.S. Case No. 96 of 2020, 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)

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