

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.69257 of 2022

Arising Out of PS. Case No.-460 Year-2020 Thana- MINAPUR District- Muzaffarpur

Mahesh Paswan Son Of Late Yogeshwar Paswan Resident At Village -
Dharpur, P.S. - Minapur, District - Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Mritunjay Kumar Singh, Advocate
For the Opposite Party/s : Mr. Md. Shakir Ahmad, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 01-05-2023 Heard learned counsel appearing on behalf of the

petitioner and learned Additional Public Prosecutor appearing

on behalf of the State.

Let the defect(s), as pointed out by the office, be
removed within a period of four weeks from today.

The accused/petitioner is named in the F.I.R. and
apprehended his arrest in connection with Minapur P.S. Case
No.460 of 2020 registered for the offences punishable under
Sections 272, 273 and 120-B/34 of the Indian Penal Code,
Sections 8(c), 20, 21 and 22 of the N.D.P.S. Act and Sections
30(a), 37(b) of the Bihar Prohibition and Excise Act.

The allegation against the petitioner is to involve in
illegal trading of illicit liquor alongwith other named co-accused
persons, where from one such co-accused person namely Ram



Ishwar Rai, recovery total of 520 liters of spirit alongwith 10.500 kilograms of *ganja* were alleged to be recovered from his house.

Learned counsel appearing on behalf of the petitioner submitted that the name of petitioner surfaced on the basis of disclosure made by co-accused Ram Ishwar Rai, and admittedly he was not apprehended on spot. It is pointed out that neither spirit nor *ganja* alleged to be recovered either from house of this petitioner or from his possession. It is pointed out that save and except confessional statement of co-accused nothing survives against this petitioner, and as such, it can be safely gathered that no case is made out against this petitioner, and as such, the barrier under Section 76(2) of the Bihar Prohibition and Excise Act, 2016 not appears applicable in view of the ratio as laid down by our own High Court in the case of ***Ram Vinay Yadav v. State of Bihar 2019 (3) BLJ 858***. While concluding the argument it is submitted that petitioner is a man of clean antecedent.

Learned APP appearing on behalf of the State, while opposing the prayer for bail submitted that petitioner is named in the F.I.R. and alleged to be involved in illegal trade of illicit liquor and narcotic drugs in very organized manner as it appears



from the narration of the F.I.R. itself. It is submitted that at this stage it cannot said, particularly when investigation is open that no case is being made out against this petitioner. It is also pointed out that anticipatory bail is prohibited under the excise law.

In view of the facts and circumstances as mentioned above and by taking note of the fact as petitioner is named in the F.I.R. where investigation is yet to complete and moreover provision of Section 76(2) of the Bihar Prohibition and Excise Act, 2016 prohibits anticipatory bail, accordingly the prayer of anticipatory bail of the petitioner is rejected herewith.

(Chandra Shekhar Jha, J.)

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