

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.57648 of 2022**

Arising Out of PS. Case No.-93 Year-2022 Thana- GOVERNMENT OFFICIAL COMP.  
District- Nawada

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Vikash Chaudhary @ Vicky Chaudhary @ Vikku Chaudhary Son of Late  
Vinod Chaudhary Resident of Village- Govindpur Dih, P.S.- Govindpur,  
District- Nawada

... .. Petitioner/s

Versus

THE STATE OF BIHAR.

... .. Opposite Party/s

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**Appearance :**

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

For the Opposite Party/s : Mrs. Sharda Kumari, A.P.P.

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**CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA**  
**ORAL ORDER**

2      25-11-2022                      Heard learned counsel for the petitioners and learned  
  
Additional Public Prosecutor for the State in virtual court  
  
proceeding.

Let the defects, as pointed out by the office, be  
  
removed within a period of four weeks from today.

The petitioner apprehends his arrest in a case  
  
registered for the offences punishable under Section 30(a), 30(c)  
  
of Bihar Prohibition and Excise Act, 2016.

Recovery is of total 90 liters of illicit Mahua liquor.

Learned counsel for the petitioner submits that  
  
petitioner is innocent and he has falsely been implicated in the  
  
present case. He further submits that the recovery has been  
  
made from the bank of Nadhka River and not from petitioner's



possession. Therefore, the recovery cannot be attributed to the petitioner. He further submits that the name of the petitioner has been transpired on the basis of disclosure made by the co-accused namely, Rangu Manjhi and except the disclosure made by co-accused nothing has come during investigation against the petitioner. He further submits that there is non-compliance with mandatory procedure prescribed for recovery under Section 100 of Cr.P.C. No case, whatsoever, would be made out against the petitioner under the Bihar Prohibition and Excise Act.

The learned Additional Public Prosecutor has vehemently opposed the prayer for anticipatory bail of the petitioners referring the provision contained in Section 76(2) of the Bihar Prohibition and Excise Act and submitted that the pre-arrest bail would not be maintainable and submits that petitioner carries one criminal antecedent other than the present one.

This court is aware of the decision of the Full Bench in the case or **Ram Vinay Yadav Vs. State of Bihar** reported in **2019(2) P.L.J.R. 1089**. Having regard to the law laid down in the aforesaid judgment and the submission advanced on behalf of the parties, this Court, for the limited purpose of grant of anticipatory bail, is inclined to accept the submission of counsel for the petitioners.



Considering the aforesaid facts and circumstances, nothing has been recovered from conscious possession of the petitioner and name of the petitioner has been transpired on the basis of disclosure made by the co-accused namely, Rangu Manjhi, let the petitioners, above named, in the event of his arrest or surrender within a period of four weeks from the date of receipt of the order, be released on anticipatory 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 Court below where the case is pending in connection with Excise P.S. Case No. 93 of 2022, subject to the conditions as laid down under Section 438(2) of the Cr.P.C. and also the following conditions:-

1. Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

2. If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation



of bail.

3. And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

**(Rajesh Kumar Verma, J)**

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