

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.60091 of 2023

Arising Out of PS. Case No.-415 Year-2023 Thana- KOILWAR District- Bhojpur

SHATRUGHAN KUMAR @ SHATRUDHAN KUMAR S/O LATE
DEVPRASAD MAHTO, R/O VILLAGE/ MOHALLA- SURAUNDHA
COLONY, WARD NO. 13, PS. KOILWAR, DIST. BHOJPUR.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Diwakar, Adv.

For the Opposite Party/s : Mr.Narsingh Tanti, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 07-10-2023 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Koilwar P.S. Case No. 415 of 2023, FIR dated 06.07.2023, registered for the offences punishable under Section 30 (a) of the Bihar Prohibition and Excise (Amendment) Act, 2018.

3. Prosecution case, in short, is that on the tip off, the informant along with Home Guards reached at the place of occurrence and recovered 14.760 litres of foreign liquor from the spot.

4. Learned counsel for the petitioner has submitted that the petitioner has clean antecedent and has falsely been



implicated in the present case on the ground that recovery has been made from a hut, which is situated in his land. He further submits that the petitioner was not apprehended from the place of occurrence, nothing has been recovered from his conscious possession and the witnesses of seizure list are police personnel. 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.

5. Learned APP for the State has vehemently opposed the prayer for bail of the petitioner 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.

6. This Court is aware of the 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 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 learned counsel for the petitioner.

7. Considering the fact that the petitioner has clean



antecedent and nothing has been recovered from his conscious possession, let the above-named petitioner, in the event of his arrest or surrender within a period of four weeks, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of learned Exclusive Special Excise Judge-II, Bhojpur at Ara in connection with Koilwar P.S. Case No. 415 of 2023, FIR dated 06.07.2023, subject to the conditions laid down under Section 438(2) of the Cr.P.C and with further following conditions;

(i) 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.

(ii) If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of his bail bond.

(iii) 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 antecedents, 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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