

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.60365 of 2023**

Arising Out of PS. Case No.-53 Year-2023 Thana- SALAIYA District- Aurangabad

Manoj Choudhary @ Manoj Chaudhari Son Of Doman Choudhary @ Doman Chaudhari Resident Of Village- Parasdih, Gajral Bigha, Ps- Salaiya, Dist- Aurangabad (Bihar)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Aman Vishal, APP

For the Opposite Party/s : Ms. Pushpa Sinha, APP

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

3 06-12-2023 Heard Mr. Aman Vishal, learned counsel for the petitioner as well as Ms. Pushpa Sinha, learned Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Salaiya P.S. Case No.53 of 2023, F.I.R. dated 23.05.2023 registered for the offence punishable under Sections 30(a) of the Bihar Prohibition and Excise (Amendment) Act, 2018.

3. According to prosecution case, there is recovery of 5 liters desi liquor and 100 Kg. soaked 'Mahua'.

4. Learned counsel for the petitioner submits that petitioner has falsely been implicated in the present case. He further submits that the allegation as alleged in the F.I.R. is false and fabricated and the petitioner has not committed any offence



as alleged in the F.I.R. Further submits that the FIR version is not match with the seizure list and 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. He further submits that from perusal of the seizure list, the place of the seizure is not mentioned the house of the petitioner.

5. Learned APP for the State, on the other hand vehemently opposed the prayer for anticipatory bail of the petitioner referring to the provisions contained in Section 76(2) of the Bihar Prohibition and Excise Act and submits that this application seeking pre-arrest bail would not be maintainable. Further submits that petitioner has carries one more criminal antecedents other than the present one as stated in the supplementary affidavit, but fairly submits that in that case petitioner is on bail in the pending matter.

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



counsel for the petitioner.

7. Considering the aforesaid facts that nothing has recovered from the conscious possession of the petitioner, let the petitioner, above named, in the event of his arrest or surrender before the court below within a period of thirty days from the date of receipt of the order, be released on anticipatory bail on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, Excise Court No.01, Aurangabad, in connection with Salaiya P.S. Case No.53 of 2023, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure and with other 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 bonds shall be cancelled by the Court below.

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

(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 anticipatory 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)

Prakash Narayan

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