

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.60218 of 2023

Arising Out of PS. Case No.-631 Year-2022 Thana- LAHERIYASARAI District- Darbhanga

MD. IRFAN Son of Late Hira Ansari, Resident of Village-Karamganj, P.S.-
Laheriasarai, District-Darbhanga.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Vinay Kumar Mishra, Adv.

For the Opposite Party/s : Mrs.Pronoti Singh,APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 07-10-2023 Heard Mr. Vinay Kumar Mishra, learned counsel
for the petitioner and Mrs. Pronoti Singh, learned Additional
Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Laheriasarai P.S. Case No. 631 of 2022, FIR dated 20.11.2022, registered for the offences punishable under Section 30 (a) of the Bihar Prohibition and Excise Act, 2016.

3. Recovery is of 1.2 litres of illicit liquor.

4. Learned counsel for the petitioner has submitted that the petitioner has clean antecedent. He has falsely been implicated in the present case merely on the basis of recovery made from a motor-cycle in question, which belongs to the petitioner and he is owner of the said motor-cycle. He further submits that nothing has been recovered from the conscious



possession of the petitioner and it appears from the FIR that co-accused persons were apprehended along with the said motor-cycle with illicit liquor. He next submits that the petitioner has no concern, at all, with the alleged recovery of liquor or the other accused persons. He also submits the motor cycle of the petitioner was taken away by co-accused person, Awais Ansari and he was arrested along with other accused persons with illicit liquor. 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 aforesaid facts, petitioner has clean antecedent, nothing has been recovered from the conscious possession of the petitioner, 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) with two sureties of the like amount each to the satisfaction of learned Special Judge, Excise-II, Darbhanga in connection with Laheriasarai P.S. Case No. 631 of 2022, 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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