

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.59581 of 2023**

Arising Out of PS. Case No.-64 Year-2023 Thana- NIRMALI District-
Supaul

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JITAN SAH @ JITENDRA SAH S/O LAKSHMAN SAH R/O VILLAGE- BELHA,
P.S- LAUKAHI (NARAHYA O.P.), DISTT.- MADHUBANI.

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Ashok Kumar

For the Opposite Party/s : Mr.Umesh Lal Verma

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 07-10-2023 Heard Mr. Ashok Kumar, learned counsel for the

petitioner and Mr. Umesh Lal Verma, learned A.P.P. for the

State.

The petitioner apprehends his arrest in connection

with Nirmali P.S. Case No. 64 of 2023 dated 19.03.2023

registered for the offence under Sections 30(a) of the Bihar

Prohibition and Excise Act.

Recovery is of 756 liters of illicit liquor.

Learned counsel appearing for the petitioner

submits that the petitioner is innocent and has falsely been

implicated in this case. He further submits that on bare

perusal of the F.I.R. and the seizure list, it appears that

nothing has been recovered from the conscious possession



of the petitioner rather the alleged recovery has been made from the Tata Sumo. He further submits that name of this petitioner transpired in this case on the disclosure made by the co-accused Shiv Kumar Yadav, who happens to be driver of the alleged vehicle. The petitioner has no concern at all with the alleged recovery and the co-accused. Save and except the disclosure of the co-accused, no cogent material has surfaced during course of investigation suggesting the involvement of the petitioner in the alleged occurrence, therefore, no case would be made out against the petitioner under the Bihar Prohibition and Excise Act.

Learned A.P.P. for the State has vehemently opposed the prayer for grant of anticipatory bail to 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. He further submits that the petitioner carries one more case other than the present one although he is on bail in the pending case.

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) 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 petitioner.

Considering the facts and circumstances of the case and the fact that nothing incriminating has been recovered from the possession of the petitioner and he has been made accused in this case at the behest of the co-accused, let the, above named, petitioner, in the event of his arrest or surrender before the court below 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 Incharge Exclusive Special Judge, Court No.2, Supaul in connection with Nirmali P.S. Case No. 64 of 2023, subject to the conditions laid down under Section 438(2) of the Cr.P.C. as also with 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/her absence on two consecutive dates without sufficient reason, his/her bail bond shall be



canceled 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.

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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