

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.58318 of 2023

Arising Out of PS. Case No.-56 Year-2023 Thana- SISWAN District- Siwan

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MUKESH YADAV S/O NAGENDRA YADAV, R/O VILLAGE- BHAGAR,
PS. SISWAN, DIST. SIWAN.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Ajay Kumar Tiwary, Adv.

For the Opposite Party/s : Mr.Mukesh Kumar Singh, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 07-10-2023 Heard Mr. Ajay Kumar Tiwary, learned counsel

for the petitioner and Mr. Mukesh Kumar Singh, learned

Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Siswan P.S. Case No. 56 of 2023, FIR dated
07.03.2023, registered for the offences punishable under
Sections 30 (a), 34 and 36 of the Bihar Prohibition and Excise
(Amendment) Act, 2018.

3. Recovery is of 67 litres of illicit liquor.

4. Learned counsel for the petitioner has submitted that
the petitioner has falsely been implicated in the present case on
the basis of disclosure made by the co-accused, namely, Junna
Mallah. He further submits that from perusal of the FIR as well
as the seizure list, it appears that nothing has been recovered
from the conscious possession of the petitioner, rather recovery



has been made from back side of house of Ramesh Manjhi and from one motor cycle. The petitioner has no, at all, concern with the alleged recovery or the motor-cycle in question. He next submits that two cases are pending against the petitioner, but he is on bail in both the cases. 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 and fairly submits that the petitioner carries two more cases other than the present one, but he is on bail in both the cases.

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, 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 Exclusive Special Judge, Excise Court No.-II, Siwan in connection with Siswan P.S. Case No. 56 of 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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