

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.57828 of 2023

Arising Out of PS. Case No.-198 Year-2023 Thana- BARAULI District- Gopalganj

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ABHIMANYU SINGH @ BENGAL S/O RAMBAHADUR SINGH R/O
VILLAGE - BADHEYA, P.S. - BARAULI, DIST-GOPALGANJ

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Vikash Kumar Shukla, Advocate

For the Opposite Party/s : Mr. Gauri Shankar Gupta, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 18-10-2023 Heard Mr. Vikash Kumar Shukla, learned counsel for

the petitioner and Mr. Gauri Shankar Gupta, learned Additional

Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Barauli P.S. Case No. 198 of 2023, F.I.R. dated
09.05.2023 registered for the offences punishable under
Sections 30(a), 41 of Bihar Prohibition and Excise
(Amendment) Act, 2022.

3. Recovery is of 125.100 litres of illicit liquor.

4. Learned counsel for the petitioner submits that the
petitioner is innocent and has falsely been implicated in the
present case on the basis of disclosure made by co-accused
persons namely Ashutosh Singh, Kishan Vishwakarma, Rakesh
Vishwakarma, Indra Mohan Yadav and they are going to deliver



the liquor in question to the petitioner. He further submits that it appears from the F.I.R. that nothing has been recovered from the conscious possession of the petitioner and except the disclosure made by co-accused persons, no other material has come during investigation to suggest the involvement of the petitioner in the present occurrence. Therefore, the recovery cannot be attributed to the petitioner. 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. The learned Additional Public Prosecutor has vehemently opposed the prayer for anticipatory 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. He further submits that the petitioner carries three more cases other than of similar nature but fairly submits that the petitioner is on bail in all the three pending 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) 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.

7. Considering the aforesaid facts, nothing has been recovered from conscious possession of the petitioner and the name of the petitioner has been transpired on the basis of disclosure made by co-accused persons, 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 bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Additional District @ Sessions Judge 2nd cum Special Judge Excise, Court No. 1, Gopalganj in connection with Barauli PS. Case No. 198 of 2023, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure and with other 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 absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled 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.

3. 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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