

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.58570 of 2023

Arising Out of PS. Case No.-88 Year-2023 Thana- UCHKAGAON District- Gopalganj

PRAMOD YADAV S/o- BIKRAM YADAV Village- Harkhauli Ps- Mirganj
Dist- Gopalganj

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Vyas Kumar Mishra, Advocate

For the Opposite Party/s : Mr. Sanjay Kumar Tiwary, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 07-10-2023 Heard Mr. Vyas Kumar Mishra, learned counsel for
the petitioner and Mr. Sanjay Kumar Tiwary, learned Additional
Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Uchkagaon P.S. Case No. 88 of 2023 F.I.R.
dated 18.03.2023 registered for the offences punishable under
Section 30(a) of Bihar Prohibition and Excise (Amendment)
Act, 2022.

3. Recovery is of 63.00 litres of country made
liquor.

4. Learned counsel for the petitioner submits that the
petitioner has clean antecedent and has falsely been implicated
in the present case. He further submits that as per allegation in
the F.I.R., the petitioner fled away from the place of occurrence



and local choukidar has disclosed the name of the petitioner. He further submits that nothing has been recovered from the conscious possession or the house of the petitioner rather recovery has been made from the open field in question and except the disclosure made by local choukidar, no other cogent 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.

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, the name of the petitioner has been disclosed by the local choukidar and nothing has been recovered from the conscious possession of the petitioner and petitioner having clean antecedent, 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-II-cum-Special Excise Court No.-I, Gopalganj in connection with Uchkagaon PS. Case No. 88 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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