

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.59530 of 2023**

Arising Out of PS. Case No.-165 Year-2022 Thana- MIRGANJ District-
Gopalganj

=====

RAJAN KUMAR @ RAJAN KUMAR SINGH S/O RAJESH SINGH R/O
VILLAGE- RAMPUR KALA, PS. PHULWARIYA, DIST. GOPALGANJ

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr.Vyas Kumar Mishra

For the Opposite Party/s : Mr.Akshay Lal Pandit

=====

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. Akshay Lal Pandit, learned A.P.P. for

the State.

The petitioner apprehends his arrest in connection
with Mirganj P.S. Case No. 165 of 2022 dated 13.05.2022
registered for the offence under Sections 414/34 of the
Indian Penal Code and Section 30(a) of the Bihar Prohibition
and Excise Act.

Recovery is of 482.940 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 house or conscious possession of the petitioner rather the alleged recovery has been made from the vehicle in question. He further submits that the petitioner has no concern at all with the alleged vehicle and the alleged recovery. He further submits that neither the petitioner happens to be owner of the vehicle in question nor he is stated to be driver of the vehicle, therefore, no case is 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 two more cases other than the present one but on bail in both the cases.

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 nor he relates to the recovery and vehicle in question in any manner, 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 Additional District and Sessions Judge-IV -cum- Special Judge, (Excise Act) Court No. II, Gopalganj in connection with Mirganj P.S. Case No. 165 of 2022, 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)

brajesh/-

U		T	
---	--	---	--

