

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.59545 of 2023**

Arising Out of PS. Case No.-96 Year-2023 Thana- PIYAR District-
Muzaffarpur

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MANTOSH JHA @ JITESH KUMAR @ JITESH KR @ MANTOSH S/O
JHAMAN JHA RESIDENT OF VILLAGE AJITPUR HARPUR, P.S.- PIAR, DIST.-
MUZAFFARPUR

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Hari Kishore Thakur

For the Opposite Party/s : Mr.Manoj Kumar

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 07-10-2023 Heard Mr. Hari Kishore Thakur, learned counsel for the
petitioner and Mr. Manoj Kumar, learned A.P.P. for the State.

The petitioner apprehends his arrest in connection
with Piar P.S. Case No. 96 of 2023 dated 20.05.2023 registered for
the offence under Section 30(a) of the Bihar Prohibition and
Excise Act.

Recovery is of 437.4liters of illicit foreign 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
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. Moreover, co-accused, Sujeet Kumar Goswami having more or less similar allegation has already been granted bail by a co-ordinate Bench of this Court vide order dated 31.08.2023 passed in Cr. Misc. No. 57507 of 2023.

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 cases other than the present one but he has been granted 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 nor he relates to the recovery and vehicle in question in any manner coupled with the fact that the co-accused has been granted privilege of anticipatory bail by a co-ordinate Bench of this Court, 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 Special Judge, (Excise Act) Court No. II, Muzaffarpur in connection with Piar P.S. Case No. 96 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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