

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.58973 of 2023

Arising Out of PS. Case No.-21 Year-2023 Thana- PRANPUR District- Katihar

Alok Kumar S/O Dipal Mahto R/O Village- Bagha Begusarai, P.S- Nagar,
Distt.- Begusarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Anshu Dhar Sharma, Advocate

For the Opposite Party/s : Mr. Md. Matloob Rab, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 07-10-2023 Heard Mr. Anshu Dhar Sharma, learned counsel for
the petitioner and Mr. Md. Matloob Rab, learned Additional
Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Pranpur Roshna P.S. Case No. 21 of 2023 F.I.R.
dated 02.02.2023 registered for the offences punishable under
Sections 30(a) of the Bihar Prohibition and Excise Act, 2016.

3. Recovery is of 191.3790 litres of *English* liquor.

4. Learned counsel for the petitioner submits that the
petitioner is innocent and has falsely been implicated in the
present case merely on the ground that he is the owner of the
vehicle in question. He further submits that in fact the driver
was arrested along with illicit liquor and petitioner has no
knowledge with respect to the illicit liquor carries by the driver



from the vehicle of the petitioner. He further submits that he has no concern at all with the present occurrence or the illicit liquor and he has been made accused on the basis that he is the owner of the vehicle in question and nothing has been recovered from the conscious possession of the petitioner and the petitioner was not apprehended along with illicit liquor. 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 is the owner of the vehicle in question and he carries one more case other than the present one.

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 petitioner has been made accused only on the ground that the petitioner is the owner of the vehicle in question, 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 the learned Additional District & Sessions Judge-cum-Exclusive Excise Court No. 2, Katihar in connection with Pranpur Roshna PS. Case No. 21 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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