

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.60084 of 2023

Arising Out of PS. Case No.-270 Year-2023 Thana- GOH District- Aurangabad

PANKAJ KUMAR SON OF RAJENDRA YADAV, RESIDENT OF
VILLAGE- BAZAAR VERMA, PS- GOH, DISTT- AURANGABAD.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ashok Kumar Singh, Adv.

For the Opposite Party/s : Mrs.Pronoti Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 07-10-2023 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Goh P.S. Case No. 270 of 2023, FIR dated 06.08.2023, registered for the offences punishable under Section 30 (a) of the Bihar Prohibition and Excise Act.

3. Allegedly on the tip off, the informant along with armed forces, reached at the place of occurrence and seeing the police party, two persons, riding on red motor-cycle, started to flee away. On chase, one of them, namely, Anil Kumar was arrested and the petitioner was said to be of fleeing away person. On search of the said motor-cycle, 5 litres of country-made liquor was recovered from a bag hanging in the handle of the said motor-cycle.



4. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in the present case on the basis of disclosure made by the co-accused, namely, Anil Kumar. He further submits that from perusal of the FIR as well as the seizure list, it appears that nothing has been recovered from the conscious possession of the petitioner or from his house. Recovery has been made from the motor-cycle in question and the petitioner has no concern with the alleged recovery or the motor-cycle in question and except the disclosure made by the co-accused, no other material has come during investigation suggests the involvement of the petitioner in the present case. 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. Learned APP for the State, on the other hand, has vehemently opposed the prayer for bail 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 and fairly submits that the petitioner carries two cases of similar nature more than other than the present one and in both the cases, he is on bail.



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) PLJR 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 learned counsel for the petitioner.

7. Considering the aforesaid facts, nothing has been recovered from the conscious possession of the petitioner, let the above-named petitioner, in the event of his arrest or surrender within a period of four weeks, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of learned Special Judge-II, Excise, Aurangabad in connection with Goh P.S. Case No. 270 of 2023, subject to the conditions laid down under Section 438(2) of the Cr.P.C and with further following conditions;

(i) The 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.

(ii) If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of his bail bond.

(iii) 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 antecedents, 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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