

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.60240 of 2023

Arising Out of PS. Case No.-486 Year-2022 Thana- BAISI District- Purnia

SUBODH KUMAR SINGH S/O HARENDRA SINGH VILL KANWA
TOLA SIRSA, PS- MUFFASIL, DIST- KATIHAR

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Bhola Prasad, Adv.

For the Opposite Party/s : Mr.Braj Kishore Pd., APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 07-10-2023 Heard Mr. Bhola Prasad, learned counsel for the

petitioner and Braj Kishore Prasad, learned Additional Public

Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Baisi P.S. Case No. 486 of 2022, FIR dated
08.12.2022, registered for the offences punishable under Section
30 (a), 41, 47 of the Bihar Prohibition and Excise Act, 2016.

3. Recovery is of 238 litres of illicit liquor.

4. Learned counsel for the petitioner has submitted
that the petitioner has falsely been implicated in the present case
merely on the ground that the petitioner is owner of the vehicle
in question. He further submits that from the FIR, it appears that
other accused persons were apprehended from the vehicle in
question and they are Ajit Kumar Mahto, Suraj Kumar and Sonu
Kumar. Recovery has been made from the vehicle in question



and save and except the petitioner is owner of the vehicle in question, no 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 has vehemently opposed the prayer for 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. Further fairly submits that the petitioner carries two more cases other than the present one, but he is on bail in both the case.

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 fact that nothing has been



recovered from the conscious possession of the petitioner, let him, 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) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Judge, Excise Court No.-I, Purnea in connection with Baisi P.S. Case No. 486 of 2022, FIR dated 08.12.2022, subject to the conditions laid down under Section 438(2) of the Cr.P.C and with further following conditions;

(i) 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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