

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.60090 of 2023

Arising Out of PS. Case No.-111 Year-2023 Thana- MANIGACHI District- Darbhanga

NITISH KUMAR SINGH @ NITISH KUMAR son of Rajendra Singh
Village- Putai, PS- Manigachhi, Dist- Darbhanga.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Baidya Nath Prasad, Adv.

For the Opposite Party/s : Mr.Prem Kumar Jha, 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 Manigachhi P.S. Case No. 111 of 2023, FIR dated 27.05.2023, registered for the offences punishable under Section 30 (a) of the Bihar Prohibition and Excise Act.

3. Prosecution case, in short, is that on the tip off, the informant along with police personnel and the *Chowkidar* reached at the place of occurrence where he saw some persons fleeing away. The informant with the help of police personnel apprehended some accused persons. Thereafter, a magic vehicle bearing registration no. BR07P-8010 was searched and 60 litres nepali liquor was recovered from two plastic bags kept on middle seat of the said vehicle. Further 90 litres of Nepali liquor



was recovered from the house of co-accused Ram Awatar Das.

4. Learned counsel for the petitioner has submitted that the petitioner has clean antecedent. He has falsely been implicated in the present case on the basis of disclosure made by the co-accused, namely, Ram Awtar Das. He further submits that it appears from the FIR as well as the seizure list that nothing has been recovered from the conscious possession of the petitioner, rather recovery has been made from the vehicle in question and co-accused Ram Awtar Das. The petitioner has no concern with the alleged recovery or the co-accused person. 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.

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 the petitioner has clean antecedent, nothing has been recovered from his conscious possession and his name has transpired during investigation on disclosure made by the co-accused, having clean antecedent 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 2nd Special Judge (Excise Act), Darbhanga in connection with Manigachhi P.S. Case No. 111 of 2023, 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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