

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.59529 of 2023**

Arising Out of PS. Case No.-622 Year-2023 Thana- PURNEA SADAR District- Purnia

Md. Mojaffar @ Mojaffar @ Md. Muzaffar Son Of Md. Zakir @ Zakir  
Resident Of Zero Mile, Ward No. 36, Ps- Sadar, Dist- Purnea

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr.Md Fazle Karim, Advocate

For the Opposite Party/s : Mr.Rajesh Kumar, APP

**CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA**  
**ORAL ORDER**

2      07-10-2023                      Heard Mr.Md Fazle Karim, learned counsel for the  
  
petitioner and Mr.Rajesh Kumar, learned Additional Public  
  
Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Sadar P.S.Case No.622 of 2023, F.I.R. dated 13.07.2023 registered for the offences punishable under Section 30(a) of Bihar Prohibition and Excise Act, 2016.

3. Recovery is of 20.140 liters of illicit liquor.

4. Learned counsel for the petitioner submits that petitioner has clean antecedent and he has falsely been implicated in the present case. As per the allegation in the FIR that altogether 20.140 liters of illicit liquor was recovered from the joint house of the petitioner. Learned counsel for the petitioner submits that the petitioner is not the exclusive owner



of the house in question and at the time of seizure no any family members of the petitioner was present and the copy of the seizure list not received by any family members of the petitioner. 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. Learned A.P.P. 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 Counsel for the petitioner.

7. Considering the aforesaid facts, nothing has been recovered from conscious possession of the petitioner, petitioner



has clean antecedent, 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 learned Exclusive Special Judge, Court No.01, Purnea in connection with Sadar P.S.Case No.622 of 2023, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure and with other 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/her absence on two consecutive dates without sufficient reason, his/her bail bonds shall be cancelled by the Court below.

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

(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/her 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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