

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.59374 of 2023

Arising Out of PS. Case No.-56 Year-2023 Thana- SIKTI District- Araria

Amit Yadav Son Of Late Satya Narayan Yadav @ Jhallu Resident Of Village -
Saidabad Dahgama, Ward No.4, P.S. - Sikti, District - Araria

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Madhav Jha, Advocate

For the Opposite Party/s : Mr.Bhanu Pratap Singh,APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 07-10-2023 Heard Mr.Madhav Jha, learned counsel for the

petitioner and Mr.Bhanu Pratap Singh, learned Additional

Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Sikti P.S.Case No.56 of 2023, F.I.R. dated
26.02.2023 registered for the offences punishable under Section
30(a) of Bihar Prohibition and Excise Act, 2018.

3. Recovery is of 154 liters of illicit liquor.

4. Learned counsel for the petitioner submits that
petitioner has clean antecedent. He has falsely been implicated
in the present case on the basis of the disclosure made by the
co-accused person, namely, Rohit Kumar Paswan. Further
submits that nothing has been recovered from conscious
possession or the house of the petitioner rather the recovery has



been made from the house of co-accused person, namely, Md. Rafique and the petitioner has no concern at all with the alleged recovery of illicit liquor or the other co-accused persons and except the aforesaid disclosure made by the co-accused person, namely, Rohit Kumar, no other cogent material has come during investigation against the petitioner to suggest the involvement of the petitioner in the present case. 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, the name of the petitioner has been transpired in the present case on the basis of the disclosure made by the co-accused person, namely, Rohit Kumar, 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 Excise-2nd, Araria in connection with Sikti P.S. Case No.56 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)

Nitesh/-

U		T	
---	--	---	--

