

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.59697 of 2023**

Arising Out of PS. Case No.-570 Year-2022 Thana- DARBHANGA SADAR
District- Darbhanga

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MUKUL PASWAN @ MUKUL KUMAR PASWAN Son of Rama Paswan @
Ram Paswan R/o vill - Ramsalla, P.s. - Sadar, Distt. - Darbhanga

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Aryan Singh

For the Opposite Party/s : Mr.Anil Kumar

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 07-10-2023 Heard Mr. Aryan Singh, learned counsel for the petitioner
and Mr. Anil Kumar, learned A.P.P. for the State.

The petitioner apprehends his arrest in connection with
Sadar P.S. Case No. 570 of 2022 dated 12.09.2022 registered for the
offence under Sections 30(a) of the Bihar Prohibition and Excise Act.

Recovery is of 14 liters of illicit country made liquor.

Learned counsel appearing for the petitioner submits that
the petitioner is innocent and has falsely been implicated in this case.
He further submits that on bare perusal of the F.I.R. and the seizure
list, it appears that nothing has been recovered from the conscious
possession of the petitioner rather the alleged recovery has been made
from the motorcycle in question. He further submits that name of this
petitioner transpired in this case on the disclosure made by the local
chaukidar. The petitioner has no concern at all with the alleged
recovery. Save and except the disclosure of the local chaukidar, no



cogent material has surfaced during course of investigation suggesting the involvement of the petitioner in the alleged occurrence, therefore, no case would be made out against the petitioner under the Bihar Prohibition and Excise Act.

Learned A.P.P. for the State has vehemently opposed the prayer for grant of anticipatory bail to the petitioner referring to the provisions contained in Section 76(2) of the Bihar Prohibition and Excise Act and submits that this application seeking pre-arrest bail would not be maintainable. He further submits that the petitioner carries one more case other than the present one although he is on bail in the pending case.

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) P.L.J.R. 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.

Considering the facts and circumstances of the case and the fact that nothing incriminating has been recovered from the possession of the petitioner and he has been made accused in this case at the behest of local chaukidar, let the, above named, petitioner, in the event of his arrest or surrender before the court below 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-I (Excise Act), Darbhanga in connection with Sadar P.S. Case No. 570 of 2022, subject



to the conditions laid down under Section 438(2) of the Cr.P.C. as also with the following conditions:-

(1) 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 bond shall be canceled by the Court below.

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

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 antecedent, 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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