

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61316 of 2023

Arising Out of PS. Case No.-125 Year-2022 Thana- DARIHAT District- Rohtas

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Dhiraj Singh Son Of Gopal Singh Resident Of Village- Dhanechha, Ps-
Durgawati, Distt- Kaimur (BHABHUA)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Ghanshyam Tiwary, Advocate

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

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 12-10-2023 Heard Mr.Ghanshyam Tiwary, learned counsel for

the petitioner and Mr.Anil Kumar, learned Additional Public

Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Darihat P.S.Case No.125 of 2022 registered for the offences punishable under Sections 272, 273, 419, 420, 467, 468, 471, 120(B),34 of IPC and Sections 30(a), 31, 32(i)(ii), 36,41,45 of Bihar Prohibition and Excise Amendment Act, 2018.

3. Recovery is of 2232 liters of English 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 persons, namely, Rohit Yadav and Dilip Yadav. Further



submits that it appears from the FIR as well as the seizure list that nothing incriminating has been recovered from conscious possession of the petitioner rather the recovery has been made from the Truck in question and the petitioner has no concern at all with the alleged recovery of illicit liquor or the Truck in question and except the disclosure made by the co-accused persons, namely, Rohit Yadav and Dilip Yadav, no other material has come during investigation against the petitioner to suggest the involvement of the petitioner in the present occurrence and the similarly situated co-accused person, namely, Anup Singh @ Anup Kumar Singh, whose name also come on the basis of the disclosure made by the co-accused person, has been granted privilege of anticipatory bail vide order dated 19.10.2022 passed in Cr. Misc. No. 55127 of 2022, co-accused persons, namely, Himansu Singh @ Himansu Raj, Shiwangi Batra and Gaurav Gupta @ Nikki Singh have also been granted privilege of anticipatory bail vide orders dated 09.12.2022 and 19.05.2023 passed in Cr. Misc. Nos. 59744 of 2022, 24667 of 2023 and 24835 of 2023 respectively. 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 incriminating article 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, Excise Court No.-1, Rohtas at Sasaram



in connection with Darihat P.S.Case No.125 of 2022, 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 their absence on two consecutive dates without sufficient reason, his 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 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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