

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.59577 of 2023**

Arising Out of PS. Case No.-889 Year-2022 Thana- MANER District- Patna
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ASHOK KUMAR @ ASHOK RAI son of Shravan Rai Village- Loadipur
Beaupur Ps- maner Dist- Patna

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Parashuram Singh

For the Opposite Party/s : Mr.Sanjay Kumar

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA

ORAL ORDER

2 07-10-2023

Heard Mr. Parashuram Singh, learned counsel for the
petitioner and Mr. Sanjay Kumar learned A.P.P. for the State.

The petitioner apprehends his arrest in connection with
Maner P.S. Case No. 889 of 2022 dated 07.12.2022 registered for the
offence under Sections Section 30(a) of the Bihar Prohibition and
Excise Act.

Recovery is of 124.875 liters of illicit foreign liquor.

Learned counsel appearing for the petitioner submits
that the petitioner, who is of clean antecedent, 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 vehicle in
question. He further submits that name of petitioner has surfaced in
this case on the basis of confessional statement of the co-accused,
Vishal Kumar. He further submits that the petitioner has no concern
at all with the alleged vehicle and the alleged recovery. Save and



except the confessional statement of the co-accused, no cogent material has surfaced during course of investigation suggesting the involvement of the petitioner in the alleged occurrence, therefore, no case is 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.

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 his name transpired on the basis of confession of the co-accused and the petitioner has got clean antecedent, 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 Special Judge, (Excise Act), Danapur, Patna in connection with Maner P.S. Case No. 889 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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