

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.66240 of 2023**

Arising Out of PS. Case No.-243 Year-2019 Thana- TEKARI District- Gaya
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NIRAJ KUMAR SON OF LATE RAM PRAVESH @ RAM PRAVESH SINGH
RESIDENT OF VILLAGE - PEARPURA, POLICE STATION - KHIRI MORE,
DISTRICT - PATNA

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Baijnath Sah
For the Opposite Party/s : Mr. Chandra Bhushan Prasad

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 01-11-2023 Heard Mr. Baijnath Sah, learned counsel for the

petitioner and Mr. Chandra Bhushan Prasad, learned A.P.P.

for the State.

The petitioner apprehends his arrest in connection
with Khirimore P.S. Case No. 07 of 2023 dated 25.01.2023
registered for the offence under Sections 30(d) of the Bihar
Prohibition and Excise Act.

Recovery is of 30.5 quintals of Mahua.

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 house or conscious possession of the petitioner rather the alleged recovery has been made from the poultry farm of the petitioner. He further submits that there is non-compliance of Section 100 Cr.P.C. while preparing the seizure list, therefore, no case would be made out against the petitioner under the Bihar Prohibition and Excise Act. Moreover, co-accused, Abhitabh Kumar @ Amitabh Kumar @ Amitabh Sao and Ajjet Kumar @ Ajeet Sao have already been granted bail by a co-ordinate Bench of this Court vide order dated 24.07.2023 passed in Cr. Misc. No. 46407 of 2023.

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 he has got clean antecedent and the co-accused has been granted anticipatory bail by a co-ordinate Bench of this Court, 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), Danapur Patna in connection with Khirimore P.S. Case No. 07 of 2023, 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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