

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61163 of 2023

Arising Out of PS. Case No.-112 Year-2023 Thana- PATEPUR District- Vaishali

Sonu Rai @ Sonu Kumar S/O Subodh Rai R/O Village- Saidpur, Dumra, P.S-
Patepur, Distt.- Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Alok Kumar Alok, Advocate

For the Opposite Party/s : Mr.Ajay Kumar No. 2, APP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

3 17-10-2023 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. The petitioner is apprehending his arrest in connection with Patepur P.S. case No. 112/2023 registered for the offence punishable under Sections 420, 120(B) of the Indian Penal Code and and Sections 30(a), 32(ii) and 41(i) of the Bihar Prohibition and Excise Act, 2016.

3. 4725.72 liters illicit liquor has been recovered while it was being unloaded from a truck. The two persons, who have been arrested, have stated the name of the petitioner along with four other persons as being the persons who were indulging in trade of the liquor in question.

4. Learned counsel for the petitioner submits that other than statement of co-accused that also recorded in custody,



there is no material to connect the petitioner with the alleged recovery. It is nobody's case that he was even seen in the vicinity from where the recovery has been made. He has no criminal antecedents. He does submit that conditions requisite for lifting the bar under Section 76(2) of the Bihar Prohibition and Excise Act are made out in favour of the petitioner.

5. The learned APP for the State has opposed the prayer for anticipatory bail, referring to the provisions contained in Section 76(2) of the Bihar Prohibition and Excise Act and submitted that pre-arrest bail would not be maintainable.

6. This Court is conscious of decision of the Full Bench in the case of *Ram Vinay Yadav vs. State of Bihar* reported in *2019(2) PLJR 1089*. Considering the rival submissions, the submission that nobody saw the petitioner near the place of recovery, he has no connection with the vehicles which are stated to be at the place from where recovery was made and that other than statement of co-accused, there is no material, this Court is satisfied that the conditions for lifting the bar under Section 76(2) exists.

7. Petitioner's prayer for anticipatory bail is allowed.

8. Accordingly, let the petitioner, above named, in the event of his arrest or surrender before the court below within a



period of four weeks from today, 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 the learned Exclusive Special Excise Court No. 2, Vaishali at Hajipur, in connection with Patepur P.S. case No. 112/2023, subject to the conditions as laid down in Section 438(2) of the Code of Criminal Procedure with following conditions:

(i) That one of the bailors will be a close relative of the petitioner who will give an affidavit giving genealogy as to how he is related with the petitioner. The bailor will also undertake to inform the court if there is any change in the address of the petitioner.

(ii) That the petitioner will be well represented on each date and if he fails to do so on two consecutive dates, his bail bond will be liable to be cancelled.

(Madhuresh Prasad, J)

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