

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61284 of 2023

Arising Out of PS. Case No.-584 Year-2023 Thana- KANTI District- Muzaffarpur

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RAM KUMAR RAI @ SURENDRA KUMAR SON OF LATE SITA RAM
RAY R/O VILLAGE - KARNPUR UTRI GOI TOLA, PS- BOCHAHA,
DIST- MUZAFFARPUR

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sunil Kumar Pandey, Advocate

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

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 12-10-2023 Heard Mr. Sunil Kumar Pandey, learned counsel for

the petitioner and Mr. Kumar Veerendra Narayan, learned

Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Kanti P.S. Case No. 584 of 2023 F.I.R. dated
01.08.2023 registered for the offences punishable under
Sections 30(a), 32(i) (iii), 36, 41 (i)(ii) of Bihar Prohibition and
Excise Act, 2016-2018.

3. Recovery is of 682.560 litres of illicit foreign
liquor.

4. Learned counsel for the petitioner submits that the
petitioner is innocent and has falsely been implicated in the
present case. He further submits that it appears from the F.I.R.



that nothing has been recovered from the conscious possession or the house of the petitioner rather recovery has been made from the vehicle in question and the name of the petitioner has been transpired on the basis of disclosure made by co-accused person namely Suraj Kumar and he has stated that he was going to deliver the user of mobile numbers, holder and other co-accused persons. He further submits that except the disclosure of the co-accused persons, no other material has come to suggest the involvement of the petitioner in the present occurrence and the petitioner is neither the owner nor the driver of the vehicle in question and he has no concern at all with the alleged recovery of illicit liquor or the vehicle or the co-accused person. Therefore, the recovery cannot be attributed to the petitioner. 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. The learned Additional Public Prosecutor has vehemently opposed the prayer for anticipatory 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. He further submits that



the petitioner carries one more case other than the present one.

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) 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.

7. Considering the aforesaid facts, nothing has been recovered from conscious possession of the petitioner and the name of the petitioner has been transpired on the basis of disclosure made by co-accused person, 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. II, Muzaffarpur in connection with Kanti PS. Case No. 584 of 2023, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure and with other 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 absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled 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.

3. 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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