

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.67956 of 2023**

Arising Out of PS. Case No.-125 Year-2023 Thana- BANKA District- Banka
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MANTU YADAV SON OF LATE RAMESHWAR YADAV @ RAM YADAV
RESIDENT OF VILLAGE MAJLISPUR, PS BANKA, DIST- BANKA
... .. Petitioner/s

Versus

THE STATE OF BIHAR
... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Ankit Raj
For the Opposite Party/s : Mr.Narsingh Tanti

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 19-10-2023 Heard Mr. Ankit Raj, learned counsel for the petitioner
and Mr. Narsingh Tanti, learned A.P.P. for the State.

The petitioner apprehends his arrest in connection
with Banka P.S. Case No. 125 of 2023 registered for the offence
under Section 30(a) of the Bihar Prohibition and Excise Act.

Recovery is of 17.625 liters of foreign liquor.

Learned counsel appearing for the petitioner submits
that the petitioner 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 altogether 17.625 liters of foreign
liquor has been recovered from the house of the petitioner. He
further submits that the petitioner is not the absolute owner of
the house in question and the said house is joint house property
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.

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. He further submits that the petitioners carries two more cases of similar cases other than the present one but he fairly submits that the petitioner is on bail in the pending cases.

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 the recovery has been made from the joint house of the petitioner, 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 In-charge A.D.J.-II, Banka in



connection with Banka P.S. Case No. 125 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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