

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.65965 of 2023

Arising Out of PS. Case No.-158 Year-2023 Thana- MADHEPURA District- Madhepura

SANJEET KUMAR SAH @ SANJEET SAH SON OF SRI NAWAB SAH
Village- Mathahi W.NO-6, P.S & Dist- - Madhepura

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr. Sanjay Kumar Sharma, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 01-11-2023 Heard Mr. Pravin Kumar, learned counsel for the

petitioner and Mr. Sanjay Kumar Sharma, learned Additional

Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Madhepura P.S. Case No. 158 of 2023 F.I.R. dated 14.02.2023 registered for the offences punishable under Sections 30(a) of Bihar Prohibition and Excise Act, 2018.

3. Recovery is of 76.32 litres of country made liquor.

4. Learned counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in the present case merely on the ground that the recovery has been made from the motorcycle in question and the petitioner is the owner of the motorcycle in question. He further submits that the petitioner was not apprehended at the place of occurrence



and nothing incriminating article has been has been recovered from the conscious possession of the petitioner and on the basis of disclosure made by co-accused person, the name of the petitioner has been implicated in the present case. 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 two more cases other than the present one but fairly submits on the basis of paragraph-3 of the petition that the petitioner is on bail in both the cases.

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 that nothing has been recovered from conscious possession of the petitioner and the name of the petitioner has been transpired that he is the owner of the motorcycle in question as well as 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 Additional District & Sessions Judge-V-cum-Special Judge, Excise Act-I, Madhepura in connection with Madhepura PS. Case No. 158 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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