

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.65974 of 2023**

Arising Out of PS. Case No.-259 Year-2023 Thana- BHAGWAN BAZAR District- Saran

Dhananjay Yadav Son of Ram Ishwar Yadav R/o vill - Chainpur, P.S. -  
Manjhi, Distt - Saran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr. Sanjay Kumar Jha, Advocate

For the Opposite Party/s : Mrs. Meena Singh, APP

**CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA**  
**ORAL ORDER**

2      01-11-2023                      Heard Mr. Sanjay Kumar Jha, learned counsel for the  
  
petitioner and Mrs. Meena Singh, learned Additional Public  
  
Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Bhagwan Bazar P.S. Case No. 259 of 2023 F.I.R. dated 23.10.2023 registered for the offences punishable under Section 414 of the Indian Penal Code and Section 30(a) of Bihar Prohibition and Excise Act.

3. Recovery is of 48 litres of country made liquor.

4. Learned counsel for the petitioner submits that the petitioner has clean antecedent 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. Learned counsel for



the petitioner further submits that from perusal of the F.I.R. it appears that the petitioner was not apprehended at the place of occurrence and co-accused person was apprehended along with motorcycle as well as liquor and he has no concern at all with the alleged recovery of illicit liquor. 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.

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 petitioner having clean antecedent and nothing has been recovered from



conscious possession of the petitioner and the name of the petitioner has been transpired on the basis that the petitioner is the owner of the motorcycle in question, 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 Sessions Judge-II-cum-Ist Exclusive Special Judge Excise, Saran at Chapra in connection with Bhagwan Bazar PS. Case No. 259 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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