

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.66035 of 2023**

Arising Out of PS. Case No.-139 Year-2023 Thana- FESHAR District-
Aurangabad

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CHHOTU KUMAR RAVI SON OF GULICHAND RAM RESIDENT OF VILLAGE
- PURNIPALHEYA, P.S. - MANIKA, DISTRICT - LATHEHAR (JHARKHAND)

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Mukul Kumari

For the Opposite Party/s : Mr.Sangeeta Sharma

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 01-11-2023 Heard Mrs. Mukul Kumari, learned counsel for the

petitioner and Mrs. Sangeeta Sharma, learned A.P.P. for the

State.

The petitioner apprehends his arrest in connection
with Fesar P.S. Case No. 139 of 2023 registered for the
offence under 30(a) of the Bihar Prohibition and Excise Act.

Recovery is of 360 liters of Spirit.

Learned counsel appearing for the petitioner
submits that the petitioner, who is of clean antecedent, 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 nothing has been recovered from
the house or conscious possession of the petitioner rather



the alleged recovery has been made from the car in question and his name transpired in this case merely on the ground that he happens to be owner of the alleged vehicle. Save and except the aforesaid, no cogent material has surfaced during course of investigation suggesting the involvement of the petitioner in the alleged occurrence. 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.

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 petitioner has been made accused in this case on the ground that he happens to be owner of the alleged vehicle and he bears the clean antecedent, 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 Special Judge, (Excise), Aurangabad in connection with Fesar P.S. Case No. 139 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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