

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.65941 of 2023

Arising Out of PS. Case No.-95 Year-2023 Thana- SASARAM RAIL P.S. District- Gaya

Jitendra Chaudhary @ Natwa Chaudhary Son Of Late Mahendra Chaudhary
Resident Of Village - Lal Bangala, Dehari Ward No.10, Dalmiyanagar, P.S. -
Dalmiyanagar O.P., District - Rohtas At Sasaram

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rajani Kant Pandey, Advocate

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

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 01-11-2023 Heard Mr. Rajani Kant Pandey, learned counsel for
the petitioner and Mr. Manoj Kumar, learned Additional Public
Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Rail Sasaram-Dehri P.S. Case No. 95 of 2023
F.I.R. dated 09.06.2023 registered for the offences punishable
under Section 30(A) of the Bihar Prohibition and Excise
(Amendment) Act, 2018.

3. Recovery is of 307 litres of country made blue
lime liquor.

4. Learned counsel for the petitioner submits that the
petitioner is clean antecedent and has falsely been implicated in
the present case. He further submits that it appears from the



F.I.R. that on the basis of disclosure made by co-accused person namely Rinku Kumar Gupta the name of the petitioner has been implicated in the false and fabricated case and nothing has been recovered from the conscious possession of the petitioner. He further submits that except the disclosure made by co-accused person, no other cogent material has come during investigation to suggest the involvement of the petitioner in the present occurrence. He further submits that after the present F.I.R. the petitioner has been implicated in another case of similar nature. 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 Additional Sessions Judge cum Exclusive Special Excise Judge, Court No. 2, Gaya, District- Gaya in connection with Rail Sasaram-Dehri PS. Case No. 95 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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