

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.66328 of 2023**

Arising Out of PS. Case No.-454 Year-2023 Thana- SIWAN MUFFASIL District- Siwan

Narayan Yadav S/O Birender Yadav Village- Sikubara, Ps- Nautan, Dist-
Siwan

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Gajendra Kumar Singh, Advocate

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

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA

ORAL ORDER

2 01-11-2023 Heard learned counsel for the petitioner as well as
learned Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Siwan Muffasil P.S. Case No.454 of 2023, F.I.R. dated 17.08.2023 registered for the offence punishable under Section 30(a) of the Bihar Prohibition and Excise Act.

3. The allegation is regarding recovery of 1179 litres countrymade liquor.

4. Learned counsel for the petitioner submits that petitioner has falsely been implicated in the present case merely on the ground of secret information which was received by the police. He further submits that it appears from the FIR that



nothing has been recovered from the conscious possession of the petitioner, rather recovery has been made from the vehicle in question and the petitioner is neither the owner nor the driver of the vehicle in question and he has no concern at all with the alleged liquor and there is non-compliance of Section 100 of the 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 bail of the petitioner on the ground that petitioner carries two more criminal antecedents other than the present one and 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.

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) PLJR 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



recovered from the conscious possession of the petitioner, 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 anticipatory bail on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Judge, Excise Court No.2, Siwan in connection with Siwan Muffasil P.S. Case No.454 of 2023, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure and with other following conditions:-

(i) 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 bonds shall be cancelled by the Court below.

(ii) If the petitioner tamper with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of anticipatory bail.

(iii) 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 antecedents, the court below shall take step for cancellation of anticipatory 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)

Prakash Narayan

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