

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.65394 of 2023

Arising Out of PS. Case No.-129 Year-2023 Thana- PIYAR District- Muzaffarpur

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Manish Singh Son Of Jagdish Singh Resident Of Village- Sundarpur Ratwara
Ps- Pear (HATHA O.P.), Distt- Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ravi Ranjan, Advocate

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

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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 Pear (Hatha O.P.) P.S. Case No.129 of 2023, F.I.R. dated 27.06.2023 registered for the offence punishable under Sections 30(a) of the Bihar Prohibition Excise Act.

3. There has been recovery of 27 liters foreign liquors from a Government pond situated in front of Bathan of the petitioner.

4. Learned counsel for the petitioner submits that petitioner has falsely been implicated in the present case merely on the basis of suspicion and his previous criminal antecedent.



He further submits that it appears from the FIR and seizure list that nothing has been recovered from the conscious possession of the petitioner, rather recovery has been made from the government pond which was situated in front of the 'Bathan' of the petitioner and except the suspicion petitioner has no concern at all with the alleged recovery of the 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. Learned APP for the State, on the other hand vehemently opposed the prayer for anticipatory bail of the petitioner stating that the petitioner has carries one case other than the present one of the similar nature, but fairly submits that on the basis of the paragraph-3 of the petition that the petitioner is on bail in the pending cases. Further 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 fact 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 Special Judge Excise Court No.IInd, Muzaffarpur in connection with Pear (Hatha O.P.) P.S. Case No.129 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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