

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.68029 of 2023

Arising Out of PS. Case No.-243 Year-2023 Thana- UDAKISHUNGANJ District-
Madhepura

MD. SALAUDDIN Son of Late Md. Suleman R/o vill - Phanhan, ward no. 4,
P.S. - Udakishunganj, Distt. - Madhepura

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Ms. Renu Kumari, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 19-10-2023 Heard Mr. Alok Kumar Singh, learned counsel for
the petitioner as well as Ms. Renu Kumari, learned Additional
Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Udakishunganj P.S. Case No.243 of 2023, F.I.R. dated 31.07.2023 registered for the offence punishable under Sections 30(a) of the Bihar Prohibition & Excise Act, 2018.

3. According to prosecution case, there has been recovery of 43 liters of illegal countrymade liquor from the under construction house of the petitioner. Accordingly, the FIR.

4. Learned counsel for the petitioner submits that petitioner has falsely been implicated in the present case. He further submits that as per allegation made in the FIR, altogether



43 liters of illegal countrymade liquor from the under construction house of the petitioner. He further submits that the petitioner has no concern at all with the alleged recovery of the illicit liquor and from perusal of the FIR and seizure list, it appears that nothing has been recovered from the conscious possession of the petitioner and there is non compliance of Section 100 of the Cr.P.C.

5. Learned APP for the State, on the other hand vehemently opposed the prayer for anticipatory bail of 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. Further submits that from perusal of the FIR and seizure list, it appears that recovery has been made from the under construction house of the petitioner, apart from that petitioner has carries one more criminal antecedents other than the present one, but fairly submits that in that case petitioner is on bail.

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, 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 Additional District & Sessions Judge, Vth-cum-Special Judge, Excise Act, Ist, Madhepura in connection with Udakishunganj P.S. Case No.243 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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