

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.68023 of 2023**

Arising Out of PS. Case No.-25 Year-2023 Thana- DHANSOI District- Buxar
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PRAKASH YADAV S/O NUNU PRASAD YADAV R/O VILLAGE- BACHHAI,
P.S- HAZARIBAGH, DISTT.- HAZARIBAGH (JHARKHAND).

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Arun Kumar Gupta

For the Opposite Party/s : Mr.Asha Kumari

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA

ORAL ORDER

2 19-10-2023

Heard Mr. A. K. Gupta, learned counsel for the
petitioner and Mrs. Asha Kumari, learned A.P.P. for the State.

The petitioner apprehends his arrest in connection
with Dhansoi P.S. Case No. 25 of 2023 registered for the offence
under Section 30(a) of the Bihar Prohibition and Excise Act.

Recovery is of 1.900 liters of foreign liquor.

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 merely on the ground the
petitioner being the owner of the alleged vehicle from which
recovery has been made. 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 conscious possession of the petitioner rather
the alleged recovery has been made from the vehicle in question.



He further submits that the petitioner has no concern at all with the alleged recovery. The driver and co-driver of the vehicle in question have been arrested by the police along with the illicit liquor and they have stated that they have brought the liquor from the U.P. for their use in Holi. Save and except the fact that the petitioner is the owner of the alleged vehicle, 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 nothing incriminating has been recovered from the possession of the petitioner and he being the owner of the vehicle in question has been made accused in this case, 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-I, (Excise Act), Buxar in connection with Dhansoi P.S. Case No. 25 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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