

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.68147 of 2023

Arising Out of PS. Case No.-535 Year-2023 Thana- MAJHAULIA District- West Champaran

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ASHOK SAH Son of Dularchan Sah R/o vill - Ward no. 05, Baithaniya, P.S. -
Majhauriya, Distt. - West Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Umesh Kumar Gupta, Advocate

For the Opposite Party/s : Mr.Bhanu Pratap Singh, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 19-10-2023 Heard Mr.Umesh Kumar Gupta, learned counsel for
the petitioner and Mr.Bhanu Pratap Singh, learned Additional
Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Majhauriya P.S.Case No.535 of 2023,FIR dated
30.06.2023 registered for the offences punishable under
Sections 30(a) and 41 of Bihar Prohibition and Excise Act,
2016.

3. Recovery is of 01 liter of illicit liquor.

4. Learned counsel for the petitioner submits that the
petitioner has falsely been implicated in the present case.
Further submits that from a bare perusal of the FIR as well as
the seizure list that 01 liter of country made liquor has been
recovered from the house of the petitioner. Further submits that



the petitioner is not the exclusive owner of the house in question and the house from which the illicit liquor was recovered is the joint house property of 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 petitioners under the Bihar Prohibition and Excise Act.

5. Learned A.P.P. for the State has vehemently opposed the prayer for 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. Further submits that the petitioner carries three more cases other than the present one but fairly submits that the petitioner is on bail in all the three cases, as mentioned in para-3 of the bail petition.

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 bail on furnishing bail bond of Rs.10,000 (Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Judge, Excise, Bettiah, West Champaran in connection with Majhauriya P.S.Case No.535 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/her absence on two consecutive dates without sufficient reason, his/her bail bond shall be cancelled by the Court below.

(II) 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.

(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/her 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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