

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71080 of 2023**

Arising Out of PS. Case No.-313 Year-2020 Thana- GOVERNMENT
OFFICIAL COMP. District- Gopalganj

=====

BYASH SINGH son of Satyanarayan Singh Village- Gulaura Ps- Gopalpur
Dist- Gopalganj

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr.Sumit Shekhar Pandey

For the Opposite Party/s : Mr.Sangeeta Sharma

=====

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 08-11-2023

Heard Mr. Sumit Shekhar Pandey, learned counsel
for the petitioner and Mr. Sangeeta Sharma, learned A.P.P. for
the State.

The petitioner apprehends his arrest in connection
with Excise P.S. Case No. 313 of 2020 registered for the
offence under Sections 272, 273, 34 of the Indian Penal Code
and Section 30(a) of the Bihar Prohibition and Excise Act.

Recovery is of 79 liters of Banti Babli country made
liquor.

Learned counsel appearing for the petitioner
submits that the petitioner is innocent and has falsely been
implicated in this case. 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 house or conscious possession of the petitioner rather the alleged recovery has been made from the bathan of the petitioner and the field of sugarcane which is 200 meter away from the house of the petitioner. He further submits that merely on the basis of suspicion, the petitioner has been implicated in this case on the basis of his previous antecedent of similar nature. 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. He further submits that petitioner carries three more cases other than the present one but he is on bail in all three cases.

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 has been made accused in this case on the basis of his previous antecedent of similar nature, 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 Additional District and Sessions Judge-IV -cum- Special Judge, (Excise Court No. Excise P.S. Case No. 313 of 2020, 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)

brajesh/-

U			
---	--	--	--

