

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.68042 of 2023

Arising Out of PS. Case No.-71 Year-2022 Thana- DHANKUND District- Banka

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MD. SAHNEWAZ SON OF ZAHEER RESIDENT OF MOHALLA - BARI
BAZAR, P.S. - KOTWALI, DISTRICT - MUNGER

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Manoj Kumar Jha, Advocate

For the Opposite Party/s : Mr. Akbar Ali, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA

ORAL ORDER

2 19-10-2023 Heard Mr.Manoj Kumar Jha, learned counsel for the
petitioner as well as Mr.Akbar Ali, learned Additional Public
Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Dhankund P.S. Case No.71 of 2022
corresponding to Special Excise Case No.680 of 2022, F.I.R.
dated 26.07.2022 registered for the offence punishable under
Sections 30(a) & (g) of the Bihar Prohibition & Excise Act,
2022.

3. The allegation is regarding recovery of 110.34 litres
of illicit liquor from the boot of the car. Accordingly, the FIR.

4. Learned counsel for the petitioner submits that



petitioner has clean antecedent and he has falsely been implicated in the present case merely on the ground that the petitioner is owner of the vehicle in question from which illicit liquor was recovered. He further submits that it appears from the FIR that nothing has been recovered from the conscious possession of the petitioner. Further submits that the petitioner had given his car to one Govind Kumar to go to Deoghar and he was apprehended along with the said illicit liquor and petitioner has no concern at all with the alleged liquor 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.

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-II, Banka in connection with Dhankund P.S. Case No.71 of 2022 corresponding to Special Excise Case No.680 of 2022, 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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