

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.68085 of 2023

Arising Out of PS. Case No.-78 Year-2022 Thana- RISIYAP District- Aurangabad

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Jitendra Singh Son Of Late Lallu Singh @ Late Lalu Prasad Singh @ Lallu Prasad Singh Resident Of Village- Bari, Po- Khamdih, Ps- Satbarwa, Distt- Palamu Jharkhand

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mrs. Rupa Kumari, Advocate

For the Opposite Party/s : Mr. Md. Nazir Ansari, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 19-10-2023 Heard Mrs. Rupa Kumari, learned counsel for the petitioner and Mr. Md. Nazir Ansari, learned Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Risiyap P.S. Case No. 78 of 2022 F.I.R. dated 05.07.2022 registered for the offences punishable under Section 30(a) of Bihar Prohibition and Excise Amendment Act, 2018.

3. Recovery is of 742.5 litres of country made liquor.

4. Learned counsel for the petitioner submits that the petitioner has clean antecedent and has falsely been implicated in the present case merely on the ground that he is the owner of the vehicle in question from which 742.5 litres of illicit liquor was recovered. He further submits that from perusal of the F.I.R.



it appears that one person was escaped from the place of occurrence and one Amarjeet Singh was apprehended and he disclosed that the petitioner is owner of the vehicle in question and in fact the vehicle of the petitioner was taken away by co-accused Amarjeet Singh on the pretext that he is going to Aurangabad to meet his relatives but he was arrested along with illicit liquor. He further submits that he has no concern at all with the alleged recovery of illicit liquor. Therefore, the recovery cannot be attributed to 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 petitioner under the Bihar Prohibition and Excise Act.

5. The learned Additional Public Prosecutor has vehemently opposed the prayer for anticipatory 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.

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) 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.

7. Considering the aforesaid facts, nothing has been recovered from conscious possession of the petitioner and the petitioner has been made accused on the ground that he is the owner of the vehicle in question and petitioner having clean antecedent, 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 Court No. II, Aurangabad in connection with Risiyap PS. Case No. 78 of 2022, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure and with other 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 absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled 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.

3. 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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