

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71240 of 2023

Arising Out of PS. Case No.-229 Year-2023 Thana- DORIGANJ District- Saran

RAJ KUMAR RAY S/o- LATE SUKHNANDAN RAY Village- Doriganj
Masanghat Ps- Doriganj Dist- Saran at Chapra

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Rakesh Kumar, Adv.

For the Opposite Party/s : Mr.Shahabuddin Azeem @ S. Azeem, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 07-11-2023 Heard learned counsel for the petitioner as well as
learned Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Doriganj P.S. Case No. 229 of 2023, F.I.R. dated 17.07.2023, Under section 30 (a) of the Bihar Prohibition and Excise (Amendment) Act, 2022.

3. Recovery of 200 liters country made liquors from the bushes.

4. Learned counsel for the petitioner submits that petitioner has been falsely implicated in the present case on the basis of secret information received by the Police. He further submits that from a bare perusal of the F.I.R., it appears that nothing has been recovered from the conscious possession of the petitioner, rather recovery has been made from the bushes situated



near the temple. The petitioner has no concern at all with the alleged recovery of illicit liquor and except the secret information received by the Police, no other cogent material has come during investigation against the petitioner to suggest the involvement of the petitioner in the present occurrence. 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. He further submits that the petitioner carries one more case other than the present one, but fairly submits on the basis of paragraph-3 of the petition that the petitioner is on bail in that case.

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 that nothing has recovered from the conscious possession of the petitioner and the name of the petitioner has been transpired on the basis of secret information received by the Police, 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 3rd Exclusive Special Excise Judge, Saran at Chapra in connection with Dorignaj P.S. Case No. 229 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 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)

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