

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.75624 of 2023**

Arising Out of PS. Case No.-759 Year-2022 Thana- KOILWAR District- Bhojpur

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Ramishwar Ray Son of Krishn Deo Ray R/O 117 Pateja, Bhagalpur, Vaishali,  
P.S.- Sarai, Dist.- Vaishali

... .. Petitioner/S

Versus

The State Of Bihar

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mrs.Smiti Bharti, Advocate

For the Opposite Party/s : Mr.Nand Kumar, APP

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**CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA**  
**ORAL ORDER**

2      29-11-2023                      Heard      Mrs.Smiti Bharti, learned counsel for the  
  
petitioner and   Mr.Nand Kumar,   learned Additional Public  
  
Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Koilwar (Gidha) P.S.Case No.759 of 2022,FIR dated 15.12.2022 registered for the offences punishable under Sections 419 and 420 of IPC and Section 30(a) of Bihar Prohibition and Excise (Amendment) Act.

3. Recovery is of 779.61 liters of foreign liquor.

4. Learned counsel for the petitioner submits that the petitioner has clean antecedent. He has falsely been implicated in the present case merely on the ground that he is owner of the Pick-up Van in question and the recovery has been made from the said Pick-up Van in question and the name of the petitioner



has been transpired on the basis of the confessional statement of the co-accused person, who was apprehended at the spot and it appears from the FIR as well as the seizure list that nothing has been recovered from conscious possession of the petitioner and he has been made accused in this case only on the ground that he is owner of the said Pick-up Van in question. 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.

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, petitioner has clean antecedent, nothing has been recovered from conscious possession of the petitioner and the name of the petitioner has been transpired only on the basis that he is owner of the vehicle in question, 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 Addl. Special Excise Judge-II, Bhojpur at Ara in connection with Koilwar (Gidha) P.S.Case No.759 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/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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