

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.75741 of 2023**

Arising Out of PS. Case No.-276 Year-2023 Thana- DARBHANGA SADAR
District- Darbhanga

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LAXMI SAH @ RAJO KUMAR @ RAJA KUMAR SON OF SURESH SAH R/O
VILLAGE- CHATRA POKHAR, P.S.- SADAR, DISTRICT- DARBHANGA

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Vinay Kumar Mishra
For the Opposite Party/s : Mr.Sanjay Kumar Tiwary

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 29-11-2023 Heard Mr. Vinay Kumar Mishra, learned counsel for

the petitioner and Mr. Sanjay Kumar Tiwary, learned A.P.P.

for the State.

The petitioner apprehends his arrest in connection

with Sadar P.S. Case No. 276 of 2023 registered for the

offence under Section 30(a) of the Bihar Prohibition and

Excise Act.

Recovery is of 135 liters of Nepali country made

liquor.

Learned counsel appearing for the petitioner

submits that the petitioner is innocent and has falsely been

implicated in this case on the basis of disclosure made by the

local people. 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 motorcycle. He further submits that the owner of the motorcycle in question is co-accused, Raja Paswan and the petitioner has no concern at all the alleged recovery and the motorcycle in question. Save and except the disclosure of the local people, no cogent material has surfaced during course of investigation suggesting the involvement of the petitioner in the alleged occurrence. 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 the petitioner carries one more case other than the present one, however, he has been allowed bail in the pending case.

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 at the behest of local people, 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 Exclusive Special Judge-1st, (Excise Act), Darbhanga in connection with Sadar P.S. Case No. 276 of 2023, 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)

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