

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.76174 of 2023

Arising Out of PS. Case No.-279 Year-2018 Thana- CHAKIA District- East Champaran

Kishori Sahani Son Of Chhotan Sahani R/O Village - Naya, Baisaha, Ward
No. 6, P.S. Chakia, Dist.- West Champaran

... .. Petitioner/s

Versus

The State Of Bihar, Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Dhurendra Kumar, Advocate

For the Opposite Party/s : Mr. Md. Anzarul Haque Sahara, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 29-11-2023 Heard Mr. Dhurendra Kumar, learned counsel

appearing on behalf of the petitioner and the learned Additional

Public Prosecutor for the State.

2. The petitioner apprehends his arrest in connection
with Chakiya P.S. Case No. 279 of 2018, registered for the
offences punishable under Sections 30(a)/ 37(s)/ 38 of the Bihar
Prohibition and Excise Act.

3. It is alleged that the police on a secret information
conducted raid in the house of the petitioner, however, noticing
the police party, the accused person succeeded in fleeing away.
In course of search two litres country made liquor was
recovered from the house of the petitioner and co-accused Raj
Kumar Sahani.

4. Learned counsel appearing on behalf of the



petitioner submits that alleged recovery has been made from a joint family house, but there is no compliance of Section 100(6) of the Code of Criminal Procedure in as much as, the memo of seizure list does not reflect that the copy of the seizure has been handed over and received by any of the family members. He next submitted that the name of the petitioner has been implicated in this case only on account of one past criminal antecedent of identical nature. Moreover, the petitioner was not even knowing the fact of pendency of the present case, thus, delay has occurred in filing the present application.

5. The petitioner undertakes that he will fully cooperate in the proceeding of the Court.

6. On the other hand, learned counsel for the State opposed the pre-arrest bail application and submits that the application for anticipatory bail in a case registered for the offences under the Bihar Prohibition and Excise Act is not maintainable.

7. So far the maintainability of the anticipatory bail is concerned, the conundrum has already been dispelled by full Bench of this Court in the case of Ram Binay Yadav vs. State of Bihar, reported in 2019 (2) PLJR 1089.

8. Regard being had to the submissions made on



behalf of the parties and considering the fact that there is no compliance of Section 100(6) Code of Criminal Procedure, apart from other infirmities in the search and seizure and the fact that the alleged recovery has made from a joint family house, let the petitioner above named be released on bail, in the event of his arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, upon furnishing bail bonds of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned Exclusive Special Excise Court No. 3, East Champaran, Motihari in connection with Chakia P.S. Case No. 279 of 2018, subject to the conditions laid down in Section 438(2) Cr.P.C. with the further condition that one of the bailors shall be the own/close family members of the petitioner.

(Harish Kumar, J)

supratim/-

U		T	
---	--	---	--

