

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.75828 of 2023

Arising Out of PS. Case No.-530 Year-2023 Thana- BIDUPUR District- Vaishali

RAJESH KUMAR SINGH @ KHAKHANU SINGH Son of Late Shobhit Singh Resident of Village - Kharika Police Station - Bidupur, District - Vaishali.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Dilip Kumar Singh, Advocate

For the Opposite Party/s : Mr. Rajendra Prasad Nat, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 29-11-2023 Heard Mr. Dilip Kumar Singh, learned counsel for the petitioner and Mr. Rajendra Prasad Nat, learned Additional Public Prosecutor for the State in the Virtual Court proceeding.

2. The petitioner is apprehending his arrest in a case registered for the offences punishable under Section 30(a) of Bihar Prohibition and Excise Amendment Act, 2018.

3. Recovery is of 33.620 liters of Indian made foreign liquor.

4. Learned counsel for the petitioner submits that the petitioner has clean antecedent and has falsely been implicated in the present case. He further submits that from perusal of the F.I.R. it appears that altogether 33.620 litres of Indian made foreign liquor was recovered from the house of the petitioner.



Learned counsel for the petitioner further submits that the petitioner is not the absolute owner of the house in question . 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 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 Excise Court No. 1-cum-Additional District & Sessions Judge, Vaishali at Hajipur in connection with Bidupur PS. Case No. 530 of 2023, 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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