

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.75746 of 2023**

Arising Out of PS. Case No.-123 Year-2022 Thana- ALINAGAR District-
Darbhanga

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MURARI KUMAR JHA S/O LATE RADHESHYAM JHA R/O VILL - MILKI, P.S.
- ALINAGAR, DIST - DARBHANGA

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Nilendu Kumar Choudhary
For the Opposite Party/s : Mr.Rajesh Kumar

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

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

for the petitioner and Mr. Rajesh Kumar, learned A.P.P. for the

State.

The petitioner apprehends his arrest in connection
with Alinagar P.S. Case No. 123 of 2023 registered for the offence
under Sections 30(a) of the Bihar Prohibition and Excise Act.

Recovery is of 5.205 liters of Nepali country made
liquor.

Learned counsel appearing for the petitioner submits
that the petitioner, who is of clean antecedent, is innocent and
has falsely been implicated in this case. 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 in question. He further submits that the name of this petitioner transpired in this case on the basis of disclosure made by the co-accused, Ghanshyam Jha who has taken the motorcycle of the petitioner for some other purpose. He further submits that the motorcycle in question has been released in favour of the petitioner by the competent court of law. The petitioner has no concern at all with the alleged recovery. Save and except the disclosure of the co-accused, who has been apprehended from the spot, 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.

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 on the basis of disclosure of the co-accused to the extent of ownership of the motorcycle in question only, 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 Special Judge Excise-II, Darbhanga in connection with Alinagar P.S. Case No. 123 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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