

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.75797 of 2023

Arising Out of PS. Case No.-749 Year-2020 Thana- HAJIPUR SADAR District- Vaishali

Tauquir Alam @ Tauquir Alam Son of Abdul Rashid R/O Vill.- Makdumpur,
P.S.- Goraul, Dist.- Vaishali

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Rajeev Ranjan No.II, Advocate Ms. Priyanka Kumari, Advocate Ms. Kumari Rupa, Advocate
For the Opposite Party/s :		Mr. Tarkeshwar Nath Thakur, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 29-11-2023 Heard Mr. Rajeev Ranjan No.II, learned counsel
for the petitioner and Mr. Tarkeshwar Nath Thakur, learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Hajipur Sadar P.S. Case No. 749 of 2020, F.I.R dated 16.11.2020 registered for the offences punishable under Section 414 Indian Penal Code and Section 30(a) of Bihar Prohibition and Excise Act, 2018.

3. Recovery is of 160 liters of country made liquor.

4. Learned counsel for the petitioner submits that the petitioner has clean antecedent and he has falsely been implicated in the present case merely on the ground that he is owner of the vehicle in question from which illicit liquor has



been recovered. He further submits that the petitioner has no concern at all with the recovery of the illicit liquor and it appears from the F.I.R that nothing has been recovered from the conscious possession of 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 has 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 the learned Exclusive Special Excise Court No. 1-cum- Additional District & Sessions Judge, Vaishali at Hajipur in connection with Hajipur Sadar P.S. Case No. 749 of 2020, 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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