

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.73527 of 2023

Arising Out of PS. Case No.-18 Year-2022 Thana- BANGARA District- Samastipur

Vikash Kumar Son of Pradeep Kumar (Owner of Mobile No.- 6202565526),
Resident of Village - Malpur Agarail, Police Station - Sakra, District -
Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr. Mohammed Arif, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 09-11-2023 Heard Mr. Ranjan Kumar, learned counsel for the
petitioner and Mr. Mohammed Arif, learned Additional Public
Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with N.H. Bangara P.S. Case No. 18 of 2022, F.I.R
dated 18.02.2022 registered for the offences punishable under
Section 30(a) of Bihar Prohibition and Excise Amendment Act,
2016.

3. Recovery is of 3546 liters of foreign liquor.

4. Learned counsel for the petitioner submits that
the petitioner has clean antecedent and has falsely been
implicated in the present case on the basis of the disclosure
made by the driver of the truck, namely, Bhashkar Lokhande.



He further submits that except the aforesaid, no other material has come during investigation to suggest the involvement of the petitioner in the present occurrence. He further submits that it appears from the F.I.R as well as seizure list 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 and the name of the petitioner has been transpired on the basis of the disclosure made by the co-accused person, 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 Special Judge, Excise-1, Samastipur in connection with N.H. Bangara P.S. Case No. 18 of 2022, 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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