

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.73865 of 2023

Arising Out of PS. Case No.-414 Year-2023 Thana- SAMASTIPUR MUFFASIL District-
Samastipur

=====

Raja Kumar S/O Shrawan Saah Resident Of Village- Singhiya, P.S.-
Karpurigram, District-Samastipur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Anshu Dhar Sharma, Advocate
For the Opposite Party/s : Mr. Ajay Kumar No. 2, APP

=====

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 09-11-2023 Heard Mr. Anshu Dhar Sharma, learned counsel for

the petitioner and Mr. Ajay Kumar No. 2, learned Additional

Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Muffasil P.S. Case No. 414 of 2023 F.I.R. dated
12.09.2023 registered for the offences punishable under
Sections 272, 273, 414 of the Indian Penal Code and Sections
30(a), 36, 37, 41(2)(I) of Bihar Prohibition and Excise
Amendment Act.

3. Recovery is of 207.930 litres of English 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 disclosure made by



co-accused person namely Chintu Kumar. He further submits that from perusal of the F.I.R. as well as seizure list that nothing has been recovered from the conscious possession of the petitioner rather recovery has been made from the Swift Deziere and a Scorpio vehicle and petitioner has no concern at all with the alleged recovery of illicit liquor or the vehicles in question. There is non-compliance with mandatory procedure prescribed for recovery under Section 100 of the 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 and the name of the petitioner has been transpired on the basis of disclosure made by 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 learned Exclusive Excise Judge-I, Samastipur in connection with Muffasil PS. Case No. 414 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)

Ibrar//-

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

