

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.73860 of 2023

Arising Out of PS. Case No.-502 Year-2020 Thana- KOILWAR District- Bhojpur

KUNAL PASWAN son of Late Ram Babu Paswan Village- Parev Ps- Bihta
Dist- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sanjeeb Kumar Sanju, Advocate
For the Opposite Party/s : Mr. Ram Naresh Ray, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 09-11-2023 Heard Mr. Sanjeeb Kumar Sanju, learned counsel for
the petitioner as well as Mr. Ram Naresh Ray, learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Koilwar P.S. Case No.502 of 2020, F.I.R. dated
27.12.2020 registered for the offence punishable under Section
30(a) of the Bihar Prohibition and Excise Act, 2018 and 414 of
the IPC.

3. Allegation against the petitioner is of recovery of
200 litre 'Mahua' Liquor from the motorcycles.

4. Learned counsel for the petitioner submits that
petitioner has clean antecedent and has falsely been implicated
in the present case merely on the ground that the recovery has
been made from the motorcycle in question and the petitioner is
owner of the motorcycle in question, so the petitioner has



falsely been implicated in the present case. He further submits that in fact the petitioner has sell the motorcycle in question to one Panch Ratan on 18.05.2018 itself but he has admitted that the said Panch Ratan had not transferred the said motorcycle in question in his name. Further submits 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 that petitioner is having clean antecedent, nothing has recovered from the conscious possession of the petitioner, 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 anticipatory bail on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Special Excise Judge, IInd, Bhojpur, Ara in connection with Koilwar P.S. Case No.502 of 2020, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure and with other following conditions:-

(i) 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 bonds shall be cancelled by the Court below.

(ii) If the petitioner tamper with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of anticipatory bail.

(iii) 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 antecedents, the court below shall take step for cancellation of anticipatory 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)

Prakash Narayan

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