

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.75939 of 2023

Arising Out of PS. Case No.-241 Year-2023 Thana- RAJAOLI District- Nawada

Horil Yadav @ Rohil Yadav S/O Budhan Yadav R/O Village Mohkama, P.S.
Rajauli, District Nawada

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Pramod Kumar Verma, Advocate

For the Opposite Party/s : Mr. Anil Kumar, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 29-11-2023 Heard Mr. Pramod Kumar Verma, learned counsel
for the petitioner and Mr. Anil Kumar, learned Additional Public
Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Rajauli P.S. Case No. 241 of 2023, F.I.R dated 23.04.2023 registered for the offences punishable under Section 30(a), (d) and 41 of Bihar Prohibition and Excise Act, 2016.

3. Recovery is of 150 liters of country made liquor and 6000 liters of fermented Jawa Mahua.

4. Learned counsel for the petitioner submits that the petitioner is innocent and he has falsely been implicated in the present case. He further submits that it appears from the F.I.R that nothing has been recovered from the conscious possession of the petitioner rather the recovery has been made



from Jobkala Barmasia forest and the petitioner has no concern at all with the said recovery of illicit liquor. He further submits that the co-accused, namely, Navlesh Yadav @ Navlesh Kumar has been granted anticipatory bail by a Co-ordinate Bench of this Hon'ble Court vide order dated 22.06.2023 passed in Cr. Misc. No. 36371 of 2023 and another co-accused, namely, Anil Yadav has been granted anticipatory bail by a Co-ordinate Bench of this Hon'ble Court vide order dated 19.10.2023 passed in Cr. Misc. No. 67736 of 2023. 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. He further submits that the petitioner carries one criminal antecedent other than the present one which is of similar nature but fairly submits on the basis of paragraph 3 of the bail petition that the petitioner is on bail in the said case.

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 and circumstances, 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-2, Nawada in connection with Rajauli P.S. Case No. 241 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)

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