

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.9327 of 2023

Arising Out of PS. Case No.-48 Year-2022 Thana- PANDAUL District- Madhubani

RAJESH KUMAR PASWAN @ RAJESH PASWAN Son of Ram Sundar
Paswan R/v- Kusmaul, P.S.- Rajnagar District- Madhubani

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ravi Prakash, Adv.
For the Opposite Party/s : Mr.Renu Kumari, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 05-10-2023 Heard Mr. Ravi Prakash, learned counsel for the
petitioner and Mr. Renu Kumari, learned A.P.P. for the State.

The petitioner apprehends his arrest in connection
with Pandaul P.S. Case No. 48 of 2022 dated 07.03.2022
registered for the offence under Sections 272, 273, 34 of the
Indian Penal Code and Section 30(a) of the Bihar Prohibition
and Excise Act.

Recovery is of 54 liters of Nepali country made
liquor.

Learned counsel appearing for the petitioner
submits that the petitioner, who is of clean antecedent, is
innocent and has falsely been implicated in this case. He
further submits that on bare perusal of the F.I.R. and the



seizure list, it appears that nothing has been recovered from the house or conscious possession of the petitioner rather the alleged recovery has been made from the mango orchard. He further submits that the petitioner was not arrested from the place of occurrence but his name transpired in this case on the disclosure made by the local villagers. Save and except the disclosure of the local people, no cogent material has surfaced during course of investigation suggesting the involvement of the petitioner in the alleged occurrence. He further submits that there is non-compliance of Section 100 Cr.P.C. while preparing the seizure list, therefore, no case would be made out against the petitioner under the Bihar Prohibition and Excise Act.

Learned A.P.P. for the State has vehemently opposed the prayer for grant of anticipatory bail to the petitioner referring to the provisions contained in Section 76(2) of the Bihar Prohibition and Excise Act and submits that this application seeking pre-arrest bail would not be maintainable.

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.

Considering the facts and circumstances of the case and the fact that nothing incriminating has been recovered from the possession of the petitioner and he has been made accused in this case at the behest of local villager, let the, above named, petitioner, in the event of his arrest or surrender before the court below within a period of four weeks, 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 Additional Sessions Judge-II -cum- Special Judge, (Excise Act), Madhubani in connection with Pandaul P.S. Case No. 48 of 2022, subject to the conditions laid down under Section 438(2) of the Cr.P.C. as also with the 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/her absence on two consecutive dates without sufficient reason, his/her bail bond shall be



canceled 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.

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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