

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.12138 of 2024

Arising Out of PS. Case No.-24 Year-2024 Thana- SIKARPUR District- West Champaran

Isteyak Ahmad @ Isteyak Ansari @ Ishyak Ansari S/O Late Najeer Ahmad
R/O Mohalla- Purani Bazar, Narkatiaganj, Ward No. 09, P.S- Shikarpur,
Distt.- West Champaran At Bettiah.

... .. Petitioner/S

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mrs.Asha Kumari,APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 22-02-2024 Heard Mr.Shankar Kumar, learned counsel for the

petitioner and Mrs.Asha Kumari, learned Additional Public

Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Shikarpur P.S.Case No.24 of 2024,FIR dated
08.01.2024 registered for the offences punishable under Section
30(a) of the Bihar Excise and Prohibition Act, 2016.

3. Recovery is of 22 liters of illicit liquor.

4. Learned counsel for the petitioner submits that the
petitioner has clean antecedent. He has falsely been implicated
in the present case merely on the ground that the recovery has
been made from the Godown of the petitioner. Learned counsel
for the petitioner submits that from a bare perusal of the FIR



as well as the seizure list that nothing has been recovered from conscious possession of the petitioner and petitioner has been made accused in this case on the ground that the petitioner is owner of the Godown of the room and the recovery has been made from the Godown in question. 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 petitioners under the Bihar Prohibition and Excise Act.

5. Learned A.P.P. for the State has vehemently opposed the prayer for 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) PLJR 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, petitioner has clean antecedent, nothing has been recovered from 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 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 Special Judge, Excise Act-II, West Champaran at Bettiah in connection with Shikarpur P.S.Case No.24 of 2024, 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/her absence on two consecutive dates without sufficient reason, his/her bail bond shall be cancelled by the Court below.

(II) 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.

(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/her 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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