

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16572 of 2024

Arising Out of PS. Case No.-1683 Year-2023 Thana- NAWADA District- Nawada

Bhushan Chaudhary @ Bhushan Kumar Son Of Rajo Chaudhary Resident Of
Village- Postmortem Road, Chaudhary Tola, Ps- Nagar, Distt- 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. Ram Priya Sharan Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 16-04-2024 Heard Mr. Pramod Kumar Verma, learned counsel
for the petitioner and Mr. Ram Priya Sharan Singh, learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Nagar P.S. Case No. 1683 of 2020 F.I.R. dated 31.10.2023 registered for the offences punishable under Section 30(a) of the Bihar Prohibition and Excise Act, 2016.

3. Recovery is of 21.45 litres of *foreign* liquor.

4. Learned counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in the present case. He further submits that from perusal of the F.I.R. it appears that 21.45 litres of liquor was recovered from the house of the petitioner and nothing has been recovered from the conscious possession of the petitioner and the petitioner is not



absolute owner of the house 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 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. Learned APP for the State further submits that from perusal of the seizure list it appears that the petitioner is the owner of the house in question and apart from that the petitioner carries one more case other than the present one but fairly submits on the basis of paragraph-3 of the petition that the petitioner is on bail in the pending matter.

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 is not the absolute owner of the house in question, let the petitioner, above named, in the event of her 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 Excise Judge-1st, Nawada in connection with Nagar PS. Case No. 1683 of 2020, 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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