

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16081 of 2024

Arising Out of PS. Case No.-1017 Year-2023 Thana- Excise P.S. District- Siwan

Vikki Saw @ Vikki Kumar Son Of Late Sambhu Saw Resident Of Village -
Makhdum Sarai (TURHA Toli), Ward No.38, P.S. - Sarai O.P., District -
Siwan

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

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

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

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 16-04-2024 Heard Mr.Ashok Kumar,learned counsel for the

petitioner and Mrs.Anita Kumari, learned Additional Public

Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Siwan Excise (Sadar) P.S.Case No.1017 of
2023,FIR dated 15.11.2023 registered for the offences
punishable under Section 30(a) of Bihar Prohibition and Excise
Act, 2016.

3. Recovery is of 60 liters of Beer and 45 liters of
country made liquor.

4. Learned counsel for the petitioner submits that the
petitioner has clean antecedent. He has falsely been implicated
in the present case. Further submits that from a bare perusal of



the FIR it appears that nothing has been recovered from conscious possession of the petitioner rather altogether 105 liters of liquor was recovered from the shop of the Fish and the name of the petitioner has been transpired on the basis of the disclosure made by the co-accused person, namely, Deepak Kumar. 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 2nd Exclusive Special Excise Judge/Incharge Successor Court, Siwan in connection with Siwan Excise (Sadar) P.S.Case No.1017 of 2023, 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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