

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25907 of 2024

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

Lallu Yadav @ Hemant Kumar @ Lalu S/O Laxman 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.Kumar Ranjit Ranjan, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 10-04-2024 Heard Mr.Pramod Kumar Verma, learned counsel
for the petitioner and Mr.Kumar Ranjit Ranjan, 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, FIR dated 23.04.2023 registered for the offences punishable under Sections 30(a),30(d) and 41 of Bihar Prohibition and Excise Act, 2016.

3. As per prosecution case, there were recovery of 150 liters of country made liquor, two alumunium utensils, machines alleged to be used for manufacturing of liquor from the place of spot. 6000 liters fermented jawa mahua were also found at the place of spot.

4. Learned counsel for the petitioner submits that the



petitioner has falsely been implicated in the present case merely on the basis of the disclosure made by the local Chaukidar. Further submits that from a bare perusal of the FIR it appears that nothing has been recovered from conscious possession of the petitioner rather the recovery has been made from the Jobkala Barmasiya Forest and the petitioner has no concern at all with the alleged recovery. 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. Further submits that the allegation against the petitioner is that he involved in the present crime in question and apart from the aforesaid the petitioner carries three more cases of similar nature other than the present one but fairly submits that the petitioner is on bail all the cases, as mentioned in para-3 of the anticipatory bail petition.

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, 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 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:-

(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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