

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23250 of 2024

Arising Out of PS. Case No.-267 Year-2020 Thana- GOVERNMENT OFFICIAL COMP.
District- East Champaran

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Khalifa Rai Son Of Ramayan Rai Resident Of Village - Gadariya, P.S. -
Turkauliya, District - East Champaran

... .. Petitioner/S

Versus

The State Of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Abhishek Kumar, Advocate
For the Opposite Party/s : Mr.Nityanand,APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 20-03-2024 Heard Mr.Abhishek Kumar, learned counsel for the

petitioner and Mr.Nityanand,learned A.P.P. for the State.

2. The petitioner is apprehending his arrest in
connection with Excise P.S.Case No.267 of 2020, FIR dated
14.8.2020 registered for the offences punishable under Section
30(a) of Bihar Prohibition and Excise Act, 2016.

3. Recovery is of 2200 liters of spirit.

4. Learned counsel for the petitioner submits that the
petitioner has clean antecedent. He has falsely been implicated
in the present case. As per allegation in the FIR altogether 2200
liters of spirit was recovered from the pick-up-van in question.
Learned counsel for the petitioner submits that the petitioner has
no concern at all with the pick-up van in question or the illicit



spirit which was recovered from the pick-up van in question and the petitioner is neither the owner nor the driver of the said pick-up van in question and the petitioner has been made accused in the present case merely on the basis of suspicion and except the suspicion no other cogent material has come during investigation against the petitioner to suggest the involvement of the petitioner in the present occurrence and the co-accused persons, namely, Sunil Sah has been granted privilege of anticipatory bail by a Coordinate Bench of this Hon'ble Court vide order dated 06.04.2021 passed in Cr. Misc. No.8665 of 2021 and another co-accused, namely, Bodha Yadav @ Bodha Ray has been granted privilege of anticipatory bail by this Court vide order dated 07.12.2022 passed in Cr. Misc. No.51040 of 2022. 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 and other co-accused persons have been granted privilege of anticipatory bail by a Coordinate Bench of this Hon'ble Court as well as this Court, 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 No.2, East Champaran at Motihari in connection with Excise P.S.Case No.267 of 2020, 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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