

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25066 of 2024

Arising Out of PS. Case No.-65 Year-2024 Thana- SURYAGARHA District- Lakhisarai

Golu Kumar Mahto @ Golu Kumar S/o Ramsevak Mahto, R/o vill -
Jagdishpur, P.S. - Surajgarha, Distt. - Lakhisarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance:

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

For the Opposite Party/s : Mr. Satyendra Narayan Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 01-05-2024 Heard Mr. Manoj Kumar, the learned counsel for
the petitioner and Mr. Satyendra Narayan Singh, the learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Surajgarha PS Case No. 65 of 2024, FIR dated
14.02.2024, registered for the offences punishable under
Section 30(a) of the Bihar Prohibition and Excise Act.

3. Recovery is of 10.440 litres of foreign liquor.

4. Learned counsel for the petitioner submits that
petitioner has clean antecedent and he has falsely been
implicated in the present case. He further submits that upon
perusal of the FIR and seizure list it appears that altogether
10.440 litres of foreign liquor has been recovered from the
courtyard of the common house of the petitioner and nothing



has been recovered from the possession of the petitioner. He further submits that petitioner is not the exclusive 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.

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 and circumstances and the fact that petitioner has clean antecedent, nothing has been recovered from his conscious possession and he is not the exclusive owner of the house in question, let the petitioner,



above-named, in the event of his arrest or surrender before the trial Court within a period of thirty days from the date of receipt of the order, be released on anticipatory bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Additional District and Sessions Judge-IV-cum-Special Excise Court-1st, Lakhisarai, where the case is pending in connection with **Surajgarha PS Case No. 65 of 2024**, subject to the conditions as laid down under Section 438(2) of the Cr.P.C. and also the following conditions:-

(i). Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the trial Court and shall remain physically present as directed by the trial Court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the trial Court.

(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 trial Court 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 trial Court 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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