

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38045 of 2024

Arising Out of PS. Case No.-96 Year-2024 Thana- Arwal District- Arwal

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Kundan Kumar Son of Saheb Dayal Singh Resident of Village- Muradpur
Huzra Baidrabad, P.S -Arwal, Dist- Arwal

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

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

For the Opposite Party/s : Mr. Parmanand Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 26-06-2024 Heard Mr. Ashok Kumar, learned counsel for the

petitioner and Mr. Parmanand Kumar, learned Additional Public

Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Arwal P.S. Case No. 96 of 2024, F.I.R dated
02.03.2024 registered for the offences punishable under Section
30(a) of Bihar Prohibition and Excise Act, 2022.

3. Recovery is of 184.5 liters of foreign liquor.

4. Learned counsel for the petitioner submits that
the petitioner is innocent and he has falsely been implicated in
the present case. He further submits that the allegation as
alleged in the F.I.R. is false and fabricated and the petitioner has
not committed any offences as alleged in the F.I.R. He further
submits that it appears from the F.I.R that the recovery has been



made from the Swift Drive Car which was standing near the house of the petitioner. He further submits that the petitioner is neither the owner nor the driver of the said car in question and he has no concern at all with the alleged recovery of illicit liquor. 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. He further submits that the petitioner carries three criminal antecedents other than the present one but fairly submits on the basis of paragraph 3 of the bail petition that the petitioner is on bail in all the three cases.

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, 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 the learned Special Excise Court No. II, Jehanabad in connection with Arwal P.S. Case No. 96 of 2024, 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 absence on two consecutive dates without sufficient reason, his 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 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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