

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.39380 of 2024

Arising Out of PS. Case No.-1016 Year-2020 Thana- KANKARBAG District- Patna

Chandra Prakash Son of Late Birendra Singh Resident of Village-
Sampatchak, P.S- Gopalpur, Dist- Patna, Pin -800007

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sunil Srivastava, Advocate
For the State : Mr. Shyam Bihari Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 10-07-2024 Heard Mr. Sunil Srivastava, learned counsel for the
petitioner and Mr. Shyam Bihari Singh, learned Additional
Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Kankarbagh P.S.Case No.1016 of 2020, FIR
dated 25.12.2020 registered for the offences punishable under
Section 30(a) of Bihar Prohibition and Excise Act.

3. Recovery is of 750 ml of illicit liquor.

4. Learned counsel for the petitioner submits that the
petitioner has clean antecedent and he has falsely been
implicated in the present case. Although, the petitioner is not
named in the FIR and the petitioner has transpired in the present
on the basis of that the petitioner is the owner of the scooty in
question from which the recovery has been made. He further



submits that the petitioner has already sold the scooty in question one Mahesh Sharma on 14.08.2020 and the present date of occurrence as alleged in the FIR is 25.12.2020, before that he has already sold the scooty in question to Mahesh Sharma. 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 and he has already sold the scooty in question on



14.08.2020, 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 Special Judge Excise, Court no.-I, Patna in connection with Kankarbagh P.S. Case No.1016 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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