

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38200 of 2024

Arising Out of PS. Case No.-48 Year-2023 Thana- PAKRIDAYAL District- East Champaran

Vikash Kumar @ Vikash Kumar Das S/O Rambabu Das R/O Village- Sishani,
P.S.- Pakaridayal, Dist-East Champaran

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Suraj Kumar Tiwari, Advocate

For the Opposite Party/s : Mr.Suresh Prasad Singh, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 28-06-2024 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. The accused-petitioner, named in the F.I.R., is apprehending his arrest in connection with Pakridayal P.S. Case No. 48 of 2023 registered for the offences punishable under Sections 272, 273, 34 of the Indian Penal Code and Section 30(a) of the Bihar Prohibition and Excise Amendment Act, 2018. He has no criminal antecedent as stated in paragraph '3' of the application.

3. The allegation against the petitioner is to have in possession of 2213.1 litres of foreign liquor alongwith 14272.2 litres appeal juice and fruity from a container parked near a kiln.



4. Learned counsel appearing on behalf of the petitioner submitted that petitioner has clean antecedent and he falsely been implicated with present case. Learned counsel further submits that from bare perusal of F.I.R. as well as seizure list, nothing recovered from conscious possession of the petitioner rather the recovery appears to be made from the container, with which petitioner has no concern at all. It is submitted that name of petitioner surfaced on the instance of local chowkidar, without having any connecting evidence. Learned counsel pointed out that the co-accused persons, namely, Aman Singh @ Aman Kumar Singh and Naresh Prasad @ Naresh Bhagat have been granted privilege of anticipatory bail by different Coordinate Benches of this Hon'ble Court vide orders dated 05.07.2023 and 29.08.2023 passed in Cr. Misc. Nos.41966 of 2023 and 56527 of 2023 respectively facing similar allegation.

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 learned counsel for the petitioner.

7. Considering the aforesaid facts, petitioner has clean antecedent, nothing has been recovered from possession of the petitioner and the name of the petitioner has been transpired during investigation on the basis of the disclosure made by the local Chaukidar, let the petitioner, above named, in the event of his arrest or surrender before the court below within a period of four weeks from today, be released on bail on furnishing bail bond of Rs.10,000 (Ten Thousand only) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Excise Court No.-3, Motihari, Civil Court, East Champaran at Motihari in



connection with Pakaridayal P.S. Case No.48 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.

(Chandra Shekhar Jha, J.)

Rajeev/-

U		T	
---	--	---	--

