

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.37093 of 2024**

Arising Out of PS. Case No.-7 Year-2023 Thana- SURYAPURA District- Rohtas

Rajendra Singh @ Etwaru Singh @ Bhuar Singh S/o Kesho Singh @ Guput  
Singh @ Gupteshwar Singh R/o Village Kosanda PS Suryapura , Dist Rohtas

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr. Rajani Kant Singh, Advocate

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

**CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA**  
**ORAL ORDER**

2      19-07-2024                      Heard Mr. Rajani Kant Singh, learned counsel for  
the petitioner and Mr. Upendra Kumar, learned Additional  
Public Prosecutor for the State.

2. The petitioner is apprehending his arrest connection  
with Suryapura P.S. Case No. 07 of 2023, F.I.R. dated  
19.01.2023 registered for the offences punishable under Section  
30(a) of the Bihar Prohibition and Excise Amendment Act,  
2018.

3. Recovery is of 30 liters of countrymade liquor, two  
old small aluminum tasla, one gas cylinder, one old iron gas  
stone.

4. Learned counsel for the petitioner submits that the  
petitioner has clean antecedent 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 offence as alleged in the F.I.R. He further submits that from perusal of the F.I.R. as well as seizure list that nothing has been recovered from the conscious possession of the petitioner rather recovery has been made from the bank of Kao river and the name of the petitioner has been transpired on the basis of disclosure made by local people and the petitioner has no concern at all with the alleged recovery of illicit liquor. He further submits that co-accused Achhelal Singh has been granted the privilege of anticipatory bail by this Court vide order dated 09.11.2023 passed in Cr. Misc. No. 73531 of 2023. Therefore, the recovery cannot be attributed to the petitioner. 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, nothing has been recovered from conscious possession of the petitioner and the petitioner having clean antecedent as well as co-accused person has been granted the privilege of anticipatory bail by 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 cum Additional District & Sessions Judge, Rohtas at Sasaram in connection with Suryapura PS. Case No. 07 of 2023, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure and with other following conditions:-

1. 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.

2. 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.

3. 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)**

Ibrar//-

|   |  |   |  |
|---|--|---|--|
| U |  | T |  |
|---|--|---|--|

