

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38418 of 2024

Arising Out of PS. Case No.-101 Year-2024 Thana- JAYNAGAR District- Madhubani

Pankaj Das Son of Devendra Das, R/o Village- Dhoi, Pingi, PS- Sonki, Dist- Darbhanga.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr. Md. Anzarul Haque Sahara, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 26-06-2024 Heard Mr. Manoj Kumar Pandey, the learned
counsel for the petitioner and Mr. Md. Anzarul Haque Sahara,
the learned Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Jayanagar PS Case No. 101 of 2024, FIR dated
01.04.2024, registered for the offences punishable under
Sections 272, 273 and 414 read with Section 34 of the Indian
Penal Code and under Section 30(a) of the Bihar Prohibition and
Excise Act.

3. Recovery is of 765 litres of Nepali liquor.

4. Learned counsel for the petitioner submits that
petitioner has clean antecedent, he is not named in the FIR and
he has falsely been implicated in the present case. He further
submits that as per allegation in the FIR, altogether 765 litres of



Nepali wine has been recovered from a pick-up van in question and even the apprehended accused persons have not disclosed the name of the petitioner. The name of the petitioner transpired during the course of investigation owing to the fact that he is the owner of the seized pick-up van in question. He further submits that nothing has been recovered from the conscious possession of the petitioner, rather the recovery has been made from the vehicle in question and petitioner has no concern at all with the recovery of the alleged liquor.

5. The learned Additional Public Prosecutor for the State on the other hand 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 mainly the fact that nothing has been recovered from conscious possession of the petitioner, he has clean antecedent and he has been made accused merely on the ground that he is the owner of the vehicle in question, let the petitioner, above-named, in the event of his arrest or surrender before the learned 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 Sessions Judge-II-cum-Special Judge, Excise Act, Madhubani, where the case is pending in connection with **Jayanagar PS Case No. 101 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 learned trial Court and shall remain physically present as directed by the learned trial Court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the learned 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 learned 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 learned trial Court shall take steps 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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