

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.39080 of 2024

Arising Out of PS. Case No.-67 Year-2024 Thana- SISWAN District- Siwan

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Jitendra Yadav @ Lattan Yadav S/O Rashnarayan Yadav Resident Of Village
Gangpur Siswan, P.S- Siswan, Dist- Siwan

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar Tiwary, Advocate
For the State : Mr. Khurshid Anwar, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 10-07-2024 Heard Mr. Ajay Kumar Tiwary, learned counsel

for the petitioner and Mr. Khurshid Anwar, learned Additional

Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Siswan P.S.Case No.67 of 2024, FIR dated
12.03.2024 registered for the offences punishable under Section
30(a) of Bihar Prohibition and Excise Act.

3. Recovery is of 204 liters of illicit liquor.

4. Learned counsel for the petitioner submits that the
petitioner has falsely been implicated in the present case. It
appears from the FIR and seizure that nothing has been
recovered from the conscious possession or the house of the
petitioner rather recovery has been made from the Akarba Ghat
and the petitioner has no concern with the alleged recovery of



illicit recovery and he has been made accused in the present case only on the basis of suspicion and information of local people. 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. He further submits that the petitioner is named in the FIR and apart from that the petitioner carries one criminal antecedent other than the present one but fairly submits on the basis of the paragraph-3 of the petition that the petitioner is on bail in the pending matter.

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, 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 Judge Excise Court No.-II, Siwan in connection with Siswan P.S. Case No.67 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/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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