

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38538 of 2024

Arising Out of PS. Case No.-157 Year-2023 Thana- FATEHPUR District- Gaya

Pintu Das S/O Ramchandra Das, R/o Village- Urwan, Post- Chandwara, P.S.-
Chandwara, Distt.- Koderma, Jharkhand.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Pintu Kumar Patel, Advocate

For the Opposite Party/s : Mr. Anand Kishore Choudhary, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 26-06-2024 Heard Mr. Pintu Kumar Patel, the learned counsel
for the petitioner and Mr. Anand Kishore Choudhary, the
learned Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Fatehpur PS Case No. 157 of 2023, FIR dated
27.02.2023, registered for the offences punishable under Section
30(a) of the Bihar Prohibition and Excise Act.

3. Recovery is of 200 litres of country made mahua
liquor.

4. Learned counsel for the petitioner submits that
petitioner has clean antecedent and he has falsely been
implicated in the present case. He further submits that according
to the FIR and seizure list, nothing has been recovered from the
conscious possession of the petitioner, rather the recovery has



been made from the motorcycle in question and petitioner has been made accused in the present case because petitioner is the legal owner of the motorcycle in question and except the aforesaid, no other cogent material has come during investigation which suggests the involvement of the petitioner in the present occurrence.

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 the fact that nothing has been recovered from conscious possession of the petitioner and the petitioner has clean



antecedent, 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 Court of Exclusive Special, Excise Court No. 4, Gaya, where the case is pending in connection with **Fatehpur PS Case No. 157 of 2023**, 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.

(iv) One of the bailors should be the father of the petitioner namely, Ramchandra Das.

(Rajesh Kumar Verma, J)

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