

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38323 of 2024

Arising Out of PS. Case No.-200 Year-2024 Thana- Excise P.S. District- Siwan

Mohammad Sayed Ali @ Md. Sayed Ali Son Of Pir Mohammad Resident Of
Village - Chhap Mathiya, P.S. - Mirganj, District - Gopalganj

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Bijay Prakash Singh, Advocate
For the State : Mr. Anil Kumar Singh No. 1, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 26-06-2024 Heard Mr. Bijay Prakash Singh, learned counsel
for the petitioner and Mr. Anil Kumar Singh No.1, learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Siwan Excise P.S. Case No. 200 of 2024, F.I.R
dated 07.04.2024 registered for the offences punishable under
Section 30(a) of Bihar Prohibition and Excise Act.

3. Recovery is of 135 litres of I.M.F.L from a car.

4. Learned counsel for the petitioner submits that
the petitioner has clean antecedent and 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. He
further submits that petitioner is made accused in the present
case merely on the ground that he is owner of the vehicle in
question from which the alleged recovery of 135 litres of I.M.F.l



have been recovered. He further submits that petitioner was not apprehended along with the illicit liquor. 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, the petitioner has clean antecedent and he has been made accused merely on the basis that he is owner of the vehicle in question, 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 the learned Exclusive Special Excise Court No.II, Siwan in connection with Siwan Excise P.S. Case No. 200 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 absence on two consecutive dates without sufficient reason, his 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 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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