

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.39523 of 2024

Arising Out of PS. Case No.-44 Year-2024 Thana- KUTUMBA District- Aurangabad

Bhushan Kumar Singh S/O Late Laxmi Singh R/O Village- Ankupa, P.S-
Kutumba, Distt.- Aurangabad.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Mukul Kumari, Advocate

For the State : Mr. Atul Chandra, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 10-07-2024 Heard Mr. Mukul Kumari, learned counsel for the

petitioner and Mr. Atul Chandra, learned Additional Public

Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with G.R. No. 110 of 2024 arising out of Kutumba P.S.Case No.44 of 2024, FIR dated 10.03.2024 registered for the offences punishable under Section 30(a) of Bihar Prohibition and Excise Act.

3. Recovery is of 34.56 liters of illicit country made liquor.

4. Learned counsel for the petitioner submits that the petitioner having clean antecedent and he has falsely been implicated in the present case merely on the ground that the petitioner is the owner of the motorcycle in question and the



recovery has been made from the motorcycle in question and altogether five motorcycles have been seized from the place of occurrence and total 190.08. liters of country made liquor have been recovered from the all motorcycles and the motorcycle of the petitioner was driving by co-accused namely Badal Kumar and he has been arrested and recovery of 34.56 liters of country made liquor from the motorcycle of 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 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.

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, petitioner having clean antecedent and he has been made accused on the ground that the petitioner is the owner of the motorcycle 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 learned Court of Special Judge of Excise-I, Aurangabad Patna in connection with G.R. No. 110 of 2024 arising out of Kutumba P.S. Case No.44 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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