

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40991 of 2024

Arising Out of PS. Case No.-470 Year-2023 Thana- MOHANIYA District- Kaimur (Bhabua)

Mahendra Kumar Son of Sohanlal, R/o Village- Thukrana, PS- Suratgarh,
Dist- Ganganagar (Rajsthan).

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner : Mr. Rajani Kant Pandey, Advocate
For the Opposite Party : Mr. Binod Kumar, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 20-07-2024 Heard Mr. Rajani Kant Pandey, the learned counsel
for the petitioner and Mr. Binod Kumar, the learned Additional
Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Mohania PS Case No. 470 of 2023, FIR dated
07.07.2023, registered for the offences punishable under Sections
420, 467 and 468 read with Section 34 of the Indian Penal Code
and under Section 30(a) and 47 of the Bihar Prohibition and
Excise Act.

3. According to the prosecution case, during the course
of vehicle checking at NH-2, a DCM truck upon seeing the police
tried to flee, which caused suspicion and the said truck was
intercepted and search was made. During search 4428 litres of
illicit liquor and 130 bags, each containing 30 kg of maize was



also recovered.

4. Learned counsel for the petitioner submits that petitioner has clean antecedent and he has falsely been implicated in the present case merely on the ground that petitioner is the owner of the said truck in question. He further submits that upon perusal of the FIR and seizure list, it appears that nothing has been recovered from the conscious possession of the petitioner and he has been made accused in the present case on the sole reason that he is the owner of the said truck in question. He further submits that the driver of the truck in question has disclosed the name of one Manjeet Singh, who handed over the loaded truck to him and the petitioner has no concern at all with the alleged occurrence. 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. The learned Additional Public Prosecutor for the State on the other hand has vehemently opposed the prayer for anticipatory bail of the petitioners 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 petitioners.

7. Considering the aforesaid facts and circumstances and mainly the facts that petitioner has clean antecedent, nothing has been recovered from the conscious possession of the petitioner and he has been made accused in the present case on the sole reason that he is the owner of the truck in question, let the petitioner, above-named, in the event of his arrest or surrender before the learned trial Court, within a period of four weeks 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 Special Judge Excise No.1-cum-Additional District Judge-IV, Kaimur at Bhabua, where the case is pending in connection with **Mohania PS Case No. 470 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 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.

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

(Rajesh Kumar Verma, J)

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