

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40298 of 2024

Arising Out of PS. Case No.-32 Year-2021 Thana- DAUDNAGAR District- Aurangabad

Ajit Kumar S/o Doman Yadav R/o Jatti Bigha, Babu Amauna, P.S.-
Daudnagar, District -Aurangabad

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Aman Vishal, Advocate

For the Opposite Party/s : Mr.Manoj Kumar, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 10-07-2024 Heard Mr.Aman Vishal, learned counsel for the

petitioner and Mr.Manoj Kumar, learned Additional Public

Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Daudnagar P.S.Case No.32 of 2021, FIR dated
18.01.2021 registered for the offences punishable under
Sections 30(a),34 of Bihar Prohibition and Excise (Amendment)
Act, 2018.

3. Recovery is of 53.7 liters of country made liquor.

4. Learned counsel for the petitioner submits that the
petitioner has clean antecedent and he has falsely been
implicated in the present case. The allegation as alleged in the
FIR is false and fabricated and the petitioner has not committed
any offence as alleged in the FIR and he has been made accused



in the present case merely on the ground that the petitioner is owner of the motorcycle in question from which 53.7 liters of country made liquor was recovered from the motorcycle in question. 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 has clean antecedent and the petitioner has been made accused in the present case merely on the ground that he is 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 Special Judge, Excise- 2nd, Aurangabad in connection with Daudnagar P.S.Case No.32 of 2021, 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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