

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40282 of 2024

Arising Out of PS. Case No.-681 Year-2023 Thana- DANAPUR District- Patna

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Ram Vinay Yadav @ Ram Vinay Ray Son of Late Tarkeshwar Ray, Resident
of Village - Kashimchak, P.S.- Akilpur, District – Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Md Anis Akhtar, Advocate

For the Opposite Party/s : Ms. Asha Kumari, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 10-07-2024 Heard Mr. Md Anis Akhtar, the learned counsel for

the petitioner and Ms. Asha Kumari, the learned Additional

Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in

connection with Danapur PS Case No. 681 of 2023, FIR dated

20.05.2023, registered for the offences punishable under

Sections 30(a), 32(ii)(iii) and 41(i)(ii) of the Bihar Prohibition

and Excise Act.

3. Recovery is of 2.8 litres of country made 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 upon

perusal of the FIR, it appears that nothing has been recovered

from the conscious possession of the petitioner, rather the



recovery has been made from the tempo in question and petitioner has been made accused in the present case merely on the ground that petitioner is the owner of the said tempo in question. He further submits that from perusal of the seizure list it appears that one Jaiki Nut was apprehended along with the alleged 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 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 mainly the facts that petitioner has clean antecedent and he has been made accused in the present case because he the owner of the tempo in question, 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 Special Judge, Excise, Danapur, Patna, where the case is pending in connection with **Danapur PS Case No. 681 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.

(Rajesh Kumar Verma, J)

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