

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.43718 of 2024

Arising Out of PS. Case No.-175 Year-2022 Thana- CHARPOKHARI District- Bhojpur

Rahul Kumar Son of Sanjay Kumar Singh R/O Vill.- Dherha, P.S.-
Charpokhari, Dist.-Bhojpur

... .. Petitioner/s

Versus

The State Of Bihar Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Dharmesh Kumar Shrivastava, Advocate
For the State	:	Mr. Braj Kishore Pd., APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 20-07-2024 Heard Mr. Dharmesh Kumar Shrivastava, learned
counsel for the petitioner and Mr. Braj Kishore Pd., learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Charpokhari P.S. Case No. 175 of 2022, F.I.R.
dated 12.09.2022 for the offences punishable under Sections
30(a) of Bihar Prohibition and Excise Act.

3. Recovery is of 30 liters of country made *mahua*
liquor.

4. Learned counsel for the petitioner submits that
the petitioner is innocent and he has falsely been implicated in
the present case. He further submits that the only on the basis of
the secret information the petitioner has been made accused in
the present case. He further submits that it appears from the



F.I.R as well as seizure list that nothing has been recovered from the conscious possession of the petitioner rather recovery have been made from the motorcycle in question and the petitioner has no concern at all with the alleged recovery of the illicit liquor or from the motorcycle in question. He further submits that except the suspicion no other cogent material has come during the investigation to suggest the involvement of the petitioner in the present occurrence. He further submits that co-accused person, namely, Ashok Singh has been granted anticipatory bail by this Court vide order dated 02.12.2022 passed in Cr. Misc. No. 60588 of 2022. 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. 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. He further submitted that the petitioner carries two cases other than the present one but fairly submits on the



basis of the para-3 of the bail petition that the petitioner in on bail in all the pending matters.

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, nothing has been recovered from conscious possession of the petitioner and the petitioner has clean antecedent, 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-I, Bhojpur at Ara in connection with Charpokhari P.S. Case No. 175 of 2022, 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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