

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.43656 of 2024

Arising Out of PS. Case No.-105 Year-2023 Thana- NADI District- Supaul

Nandan Kumar @ Dallu Kamat Son Of Shri Ghuran Kamat Village-
Lalmania, Ward No. 12, P.S.- Supaul Nadi, Distt.- Supaul

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Amrit Abhijat, Advocate

For the State : Mr. Bhanu Pratap Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 20-07-2024 Heard Mr. Amrit Abhijat, learned counsel for the
petitioner and Mr. Bhanu Pratap Singh, learned Additional
Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Supaul Nadi P.S. Case No. 105 of 2023, F.I.R. dated 27.10.2023 for the offences punishable under Sections 147, 148, 149, 353, 341, 323, 332, 333, 307, 337, 427, 504, 506 and 34 of the Indian Penal Code and Section 45 of the Bihar Prohibition and Excise Amendment Act, 2018..

3. According to prosecution case, petitioner along with other is involved in the selling of illegal liquor from their house. It is further alleged that all the accused persons vandalized police van and assaulted police force, as a result of which the informant and his team underwent treatment at Nirmali Hospital.



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 from a bare perusal of the FIR as well as seizure list it appears that no incriminating article has been recovered from the conscious possession or from the hose of the petitioner. He further submits that the allegation against the petitioner in the FIR is that he along with other co-accused persons has attacked on the police party. He further submits that from a bare perusal of the FIR it appears that there is no specific allegation of any assault or overt act against the petitioner. He further submits that co-accused person, namely, Parvati @ Parvati Kumari and others have already been granted anticipatory bail by this Court vide order dated 16.04.2024 passed in Cr. Misc. No. 14987 of 2024. 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 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 the fact that petitioner having clean antecedent, there is no specific allegation of any assault or overt act against the petitioner, no incriminating article has been recovered from the conscious possession of the petitioner and other co-accused persons have already been granted anticipatory bail by this Court, let the petitioner, above named, in the event of 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 Judge No.1, Supaul in connection with Supaul Nadi P.S. Case No. 105 of 2023, 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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