

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46097 of 2024

Arising Out of PS. Case No.-1080 Year-2023 Thana- TURKAULIYA District- East
Champaran

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Chandan Kumar Yadav Son Of Babloo Yadav Village- Shankar Saraiya Ahir
Toli, P.S.- Turkauliya, Distt.- East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :
For the Petitioner/s : Mr. Abhishek Kumar, Advocate
For the Opposite Party/s : Mr. Pradeep Narain Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 20-07-2024 Heard Mr. Abhishek Kumar, learned counsel for

the petitioner and Mr. Pradeep Narain Kumar, learned

Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Turkauliya P.S. Case No. 1080 of 2023, F.I.R
dated 17.10.2023 registered for the offences punishable under
Sections 30(a) and 41(i) of Bihar Prohibition and Excise Act.

3. Recovery is of 35 liters of country made liquor.

4. Learned counsel for the petitioner submits that
the petitioner is innocent and has falsely been implicated 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 the recovery has



been made from the sugarcane field of one Awadh Yadav. He further submits that as per the allegation in the F.I.R the petitioner along with other accused persons have fled away from the place of occurrence. He further submits that the name of the petitioner has been transpired on the basis of the disclosure made by local villagers. He further submits that the similarly situated co-accused, namely, Arvind Yadav has been granted anticipatory bail by this Hon'ble Court vide order dated 31.01.2024 passed in Cr. Misc. No. 1917 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. The learned Additional Public Prosecutor 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 submits that the petitioner carries one criminal antecedent other than the present one of similar nature but fairly submits on the basis of paragraph 3 of the bail petition that the petitioner is on bail in the pending matter.



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, 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 Special Judge, Excise Court No. 1, Motihari, East Champaran in connection with Turkauliya P.S. Case No. 1080 of 2023, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure and with other following conditions:-

1. 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.

2. 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.

3. 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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