

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.47966 of 2024

Arising Out of PS. Case No.-194 Year-2023 Thana- KESARIA District- East Champaran

Raj Kumar Sahani S/o Chandrika Sahani R/o vill - Banparuwa, P.S .-
Dumariya Ghat, Distt. - East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sanjay Kumar Tiwari, Advocate

For the Opposite Party/s : Ms.Pushpa Sinha-1, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 07-08-2024 Heard Mr.Sanjay Kumar Tiwari, learned counsel for
the petitioner and Ms.Pushpa Sinha-1, learned Additional Public
Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Kesariya P.S.Case No.194 of 2023, FIR dated 17.04.2023 registered for the offences punishable under Sections 272,273 of IPC and Sections 30(a),32,34(a),42(1) of Bihar Prohibition and Excise Act,2016.

3. Recovery is of 40 liters of country made liquor.

4. Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the present case. Further submits that from a bare perusal of the FIR it appears that there is allegation against the petitioner that he fled away from the place of occurrence and the name of the petitioner has



been disclosed by the local Chaukidar and local villagers. Further submits that the allegation as alleged in the FIR is false and fabricated and the petitioner was not present at the place of occurrence and he has been made accused in the present case only on the ground that the petitioner carries one more case of similar nature other than the present one. 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. Further submits that the petitioner carries one more case of similar nature other than the present one but fairly submits that he is on bail in the said case, as mentioned in para-3 of the anticipatory bail petition.

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, nothing has been recovered from conscious possession of the petitioner and the name of the petitioner has been transpired on the basis of the disclosure made by the local Chaukidar and local villagers, 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 Exclusive Special Excise Court No.-3, East Champaran, Motihari in connection with Kesariya P.S.Case No.194 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/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)

Nitesh/-

U		T	
---	--	---	--

