

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.47878 of 2024**

Arising Out of PS. Case No.-191 Year-2023 Thana- VIJAYEPUR District- Gopalganj

Barjesh Kumar Baitha @ Brijesh Baitha S/O Suresh Baitha R/O Chaumukha,  
P.S- Vijaipur, Distt.- Gopalganj.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr.Deepankar Raj, Advocate

For the Opposite Party/s : Mr.Ramchandra Sahni, APP

**CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA**  
**ORAL ORDER**

2      07-08-2024                      Heard   Mr.Deepankar Raj, learned counsel for the  
  
petitioner and Mr.Ramchandra Sahni, learned Additional Public  
  
Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Vijaipur P.S.Case No.191 of 2023,FIR dated 11.07.2023 registered for the offences punishable under Section 30(a) of Bihar Prohibition and Excise Act, 2016.

3. Recovery is of 23.500 liters of Desi Chulai liquor.

4. Learned counsel for the petitioner submits that the petitioner has clean antecedent. He has falsely been implicated in the present case on the basis of disclosure made by the apprehended co-accused person, namely, Ramshevak Rajbhar. Further submits that it appears from the FIR itself that nothing has been recovered from conscious possession of the petitioner



rather the recovery has been made from possession of co-accused person and the petitioner has no concern at all with the alleged recovery of illicit liquor or the co-accused person and except the disclosure made by the apprehended co-accused person, namely, Ramshevak Rajbhar, no other cogent material has come during investigation against the petitioner to suggest the involvement of the petitioner in the present occurrence. 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.

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, petitioner has clean antecedent, nothing has been recovered from conscious possession of the petitioner and the name of the petitioner has been transpired on the basis of disclosure made by the apprehended co-accused person, namely, Ramshevak Rajbhar, 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 Addl. District and Sessions Judge-IV-cum-Exclusive Special Excise Court No.-II, Gopalganj in connection with Vijaipur P.S.Case No.191 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 |  |
|---|--|---|--|

