

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45865 of 2024

Arising Out of PS. Case No.-449 Year-2022 Thana- BARAULI District- Gopalganj

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Amit Bajaj Son of Ashok Bajaj Village-D-1, Third Floor, Ganesh Nager,
Pandao Nagar Complex, P.S-Sakarpur, East Delhi, Dist-Delhi

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Pritish Ranjan, Advocate

For the Opposite Party/s : Ms. Shaheen Begum, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 20-07-2024 Heard Mr. Pritish Ranjan, learned counsel for the

petitioner and Ms. Shaheen Begum, learned Additional Public

Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Barauli (Madhopur O.P.) P.S. Case No. 449 of
2022, F.I.R dated 08.12.2022 registered for the offences
punishable under Section 30(a) of Bihar Prohibition and Excise
Amendment Act, 2018.

3. Recovery is of 107.960 liters of country made
liquor.

4. Learned counsel for the petitioner submits that
the petitioner has clean antecedent and has falsely been
implicated in the present case. He further submits that it appears
from the F.I.R that nothing has been recovered from the



conscious possession of the petitioner rather the recovery has been made from the Santro Car. He further submits that the petitioner has been made accused only on the ground that the petitioner is owner of the car in question. He further submits that the similarly situated co-accused, namely, Mritunjay Kumar Yadav has been granted bail by this Court vide order dated 24.04.2023 passed in Cr. Misc. No. 1341 of 2023. 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.

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 the petitioner has clean antecedent, nothing has been recovered from conscious possession of the petitioner and the petitioner has been made accused on the ground that he is owner of the car from where the recovery has been made, 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 Additional District & Sessions Judge -XIII cum-Special Excise Court No. 1, Gopalganj, District- Gopalganj in connection with Barauli (Madhopur O.P.) P.S. Case No. 449 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. One of the bailors shall be the father of the petitioner, namely, Ashok Bajaj.

ii. 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.

iii. 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.

iv. 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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