

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.47737 of 2024

Arising Out of PS. Case No.-66 Year-2024 Thana- NARDIGANJ District- Nawada

Golu Singh @ Subham Kumar S/o Surendra Singh Resident Of Village
Masauraha Ps Nardiganj District Nawada

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sheo Kumar Prasad, Advocate
For the State : Mr. Ashok Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 07-08-2024 Heard Mr. Sheo Kumar Prasad, learned counsel for
the petitioner and Mr. Ashok Kumar Singh, learned Additional
Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Nardiganj P.S. Case No. 66 of 2024, F.I.R dated
08.03.2024 registered for the offences punishable under Section
30(a) of Bihar Prohibition and Excise Act.

3. Recovery is of 48.750 liters of foreign 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 as per the
allegation in the FIR some of the co-accused persons have been
apprehended on the spot and the petitioner had fled away from
the place of the occurrence. He further submits that it appears



from the F.I.R itself that nothing has been recovered from the conscious possession of the petitioner rather the recovery has been made from the tempoo in question. He further submits that the name of the petitioner has been transpired on the basis of the disclosure made by the co-accused persons, namely, Manu Kumar and Tarjan Kumar. 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 for the State, on the other hand, 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, nothing has been recovered from conscious possession of the petitioner, the petitioner has clean antecedent and the name of the petitioner has been transpired on the basis of the disclosure made by the co-accused persons, 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 Exclusive Special Court Excise-2, Nawada in connection with Nardiganj P.S. Case No. 66 of 2024, 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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