

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.49905 of 2024

Arising Out of PS. Case No.-119 Year-2024 Thana- ISLAMPUR District- Nalanda

Sanjit Sapera @ Sanjeev Kumar S/O Budhu Nat @ Budhu Sapera R/O
Village - Ichahos Takiyapar, Ps Islampur, District Nalanda

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Pramod Kumar Sinha, Advocate
For the Opposite Party/s : Mr. Umesh Lal Verma, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 14-08-2024 Heard Mr. Pramod Kumar Sinha, learned counsel for
the petitioner and Mr. Umesh Lal Verma, learned Additional
Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Islampur P.S. Case No. 119 of 2024, F.I.R dated
19.03.2024 registered for the offences punishable under Section
30(a) of Bihar Prohibition and Excise Amendment Act, 2018.

3. Recovery is of 120 liters of wine.

4. Learned counsel for the petitioner submits that
the petitioner is innocent and he has falsely been implicated in
the present case due to previous criminal antecedent. He further
submits that from the perusal of the F.I.R and seizure list that
nothing has been recovered from the conscious possession of
the petitioner rather 120 liters wine has been recovered from the



open field and the petitioner has no concern at all with the alleged recovery. He further submits that the co-accused persons namely Rekha Devi and others have been granted anticipatory bail by this Court vide order dated 26.06.2024 passed in Cr. Misc. No. 38033 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 submit that the petitioner is named in the F.I.R. and apart from that the petitioner carries one criminal antecedent other than the present one but fairly submits on the basis of paragraph 3 of the bail petition that the petitioner is on bail in the said 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, 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 court of 4th Additional Sessions Judge cum Special Judge Excise-II, Nalanda at Biharsharif in connection with Islampur P.S. Case No. 119 of 2024, 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 petitionersand 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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