

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.54246 of 2024

Arising Out of PS. Case No.-105 Year-2023 Thana- MAKER District- Saran

Md. Samsu @ Sanu Takla @ Sonu Kuraishi Son Of Md. Mukhtar R/o
Village- Chitkohra, Ps- Gardanibagh, Dist- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sunil Kumar Pathak, Advocate

For the Opposite Party/s : Mr.Arun Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 06-09-2024 Heard Mr.Sunil Kumar Pathak, learned counsel for
the petitioner and Mr.Arun Kumar Singh, learned Additional
Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Maker P.S.Case No.105 of 2023,FIR dated 13.06.2023 registered for the offences punishable under Sections379,337,338,332,333,413,414 of IPC, Sections 25(1-b)a, 26/35 of Arms Act and Section 30(a) of Bihar Prohibition and Excise Act, 2016.

3. Recovery is of 01 liter of country made liquor, one loaded country made pistol, one live cartridge one big bolt cutter, two torches and one iron pilash.

4. Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the present case.



Petitioner is not named in the FIR. The name of the petitioner has been transpired on the basis of confessional statement of co-accused person who has confessed before the police in another case i.e. Dariyapur P.S. Case No.74 of 2022 and in the said Dariyapur P.S. Case No.74 of 2022 the petitioner has been granted privilege of anticipatory bail and except the disclosure made by co-accused person, 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. Further submits that the petitioner carries one more case other than the present one but fairly submits that the petitioner has been granted privilege of anticipatory bail by this Court in the said case.

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, 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 3rd Exclusive Special Excise Judge, Saran at Chapra in connection with Maker P.S.Case No.105 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)

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