

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.54596 of 2024

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

Popin Nut Son of Mahesh Nut R/o Mohalla- Chitkohra Pull Jagjivan Nagar,
P.s.- Airport, Dist.- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Binay Kumar Singh, Advocate

For the Opposite Party/s : Mr. Ram Sevak Choudhary, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

5 13-12-2024 Heard Mr. Binay Kumar Singh, learned counsel
for the petitioner and Mr. Ram Sevak Choudhary, 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, F.I.R. dated 13.06.2023 for the offences punishable under Sections 279, 337, 338, 332, 333, 413 and 414 of the Indian Penal Code and Sections 25(1-b)a, 26 and 35 of the Arms Act .

3. Recovery is of 1 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 is innocent and he has falsely been implicated in the present case. He further submits that the petitioner is not named



in the F.I.R. and the name of the petitioner has been transpired during investigation on the basis of the confessional statement of the co-accused, namely, Sunny Nut and except the confessional statement of the co-accused, no other material has come during investigation to suggest the involvement of the petitioner in the present occurrence. He further submits that it appears from the seizure list that 1 liter of country made liquor, one loaded country made pistol, one live cartridge, one big bolt cutter, two torches and one iron pilash have been recovered from the vehicle in question. He further submits that the petitioner has no concern at all with the alleged recovery of the illicit liquor or the other articles or the vehicle in question. Similarly situated co-accused, namely, Md. Samsu @ Sanu Takla @ Sonu Kuraishi has been granted anticipatory bail by this Court vide order dated 06.09.2024 passed in Cr. Misc. No. 54246 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. 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 submits 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 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 and circumstances, 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 Special Judge Exclusive Excise-II, Chapra at Saran 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 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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