

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.60141 of 2024

Arising Out of PS. Case No.-113 Year-2024 Thana- Excise P.S. District- Sitamarhi

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Diplal Rai @ Diplal Kumar Son of Bhola Ray Resident of Ward No. 1,
Mahuagachhi, Mohani Sakarauli, P.S.- Nanpur, District- Sitamarhi

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Anil Kumar, Advocate
For the Opposite Party/s : Mrs. Shaheen Begum, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 11-09-2024 Heard Mr. Anil Kumar, learned counsel for the

petitioner and Mrs. Shaheen Begum, learned Additional Public

Prosecutor for the State.

2. The petitioner is apprehending his arrest connection
with Pupri Prohibition & Excise P.S. Case No. 113 of 2024,
F.I.R. dated 12.03.2024 registered for the offences punishable
under Sections 30(a)/32(C)/30(d)/33/36 of the Bihar Prohibition
& Excise (Amendment) Act, 2018.

3. Recovery is of 20 liters of raw spirit along with
other materials.

4. Learned counsel for the petitioner submits that the
petitioner has clean antecedent and he has falsely been
implicated in the present case merely on the basis of secret
information. He further submits that from perusal of the F.I.R.



as well as seizure list that nothing has been recovered from the possession of the petitioner rather recovery has been made from the motorcycle in question and the petitioner has no concern at all with the alleged recovery of illicit liquor or the motorcycle in question and except the secret information, no other material has come during investigation to suggest the involvement of the petitioner in the present occurrence. Therefore, the recovery cannot be attributed to the petitioner. 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 the fact that nothing has been recovered from conscious possession of the petitioner and the petitioner having clean antecedent, 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 Special Judge, Prohibition & Excise Court-02, Sitamarhi in connection with Pupri Prohibition & Excise PS. Case No. 113 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 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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