

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.60143 of 2024

Arising Out of PS. Case No.-149 Year-2024 Thana- BARBIGHA District- Sheikhpura

Sikendra Chaudhary S/O Late Arjun Chaudhary R/O Village- Naryanpur, P.S-
Barbigaha, Distt.- Sheikhpura.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Dr. Anjani Pd. Singh, Advocate

For the Opposite Party/s : Mr. Khurshid Anwar, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 11-09-2024 Heard Dr. Anjani Prasad Singh, learned counsel for the
petitioner and Mr. Khurshid Anwar, learned Additional Public
Prosecutor for the State.

2. The petitioner is apprehending his arrest connection
with Barbigha P.S. Case No. 149 of 2024, F.I.R. dated 28.05.2024
registered for the offences punishable under Section 30(a) of the
Bihar Prohibition & Excise Act, 2018.

3. Recovery is of 16 litres of countrymade liquor.

4. Learned counsel for the petitioner submits that the
petitioner has clean antecedent and he has falsely been
implicated in the present case. He further submits that the
allegation as alleged in the F.I.R. is false and fabricated and the
petitioner has not committed any offence as alleged in the F.I.R.
He further submits that as per allegation in the F.I.R. altogether
16 litres of country made liquor has been recovered below the



trunk in the house of the petitioner. He further submits that recovery has been made contrary to Section 100 of the Cr. P.C. and apart from that it appears from the seizure list that there is no independent witness in the seizure list.

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 the petitioner having clean antecedent, nothing has been recovered from the conscious possession of the petitioner and there is non-compliance of Section 100 of the Cr. P.C., 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 Exclusive Excise Judge, Sheikhpura in connection with Barbigha PS. Case No. 149 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.

Ibrar//-

U		T	
---	--	---	--

(Rajesh Kumar Verma, J)

