

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.64354 of 2024**

Arising Out of PS. Case No.-270 Year-2024 Thana- LAKHISARAI District- Lakhisarai

Vishal Kumar Son of Baban Mandal Resident of village- Shyam Tola, Govind  
Bigha, PS- Lakhisarai, District- Lakhisarai

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr. Shaukat Alam, Advocate  
For the Opposite Party/s : Mr. Arun Kumar, APP

**CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA**  
**ORAL ORDER**

2      03-10-2024                      Heard Mr. Shaukat Alam, learned counsel for the  
  
petitioner and Mr. Arun Kumar, learned Additional Public  
  
Prosecutor for the State.

2. The petitioner is apprehending his arrest in  
connection with Lakhisarai P.S. Case No. 270 of 2024, F.I.R  
dated 27.04.2024 registered for the offences punishable under  
Section 30(a) of Bihar Prohibition and Excise Act, 2018.

3. Recovery is of 10 liters of mahua liquor.

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 it appears from the  
F.I.R as well as seizure list that nothing has been recovered from  
the conscious possession of the petitioner and the petitioner has  
been made accused in the present case merely on the basis of the



disclosure made by the local people. 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 for the State, on the other hand, 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 and apart from that the petitioner carries two more cases other than the present one.

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, nothing has been recovered from conscious possession of the petitioner and he has been made accused on the basis of the disclosure made by the local people, 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 Additional District and Sessions Judge IV Cum Special Excise Court 1<sup>st</sup>, Lakhisarai in connection with Lakhisarai P.S. Case No. 270 of 2024, 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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