

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.60482 of 2024

Arising Out of PS. Case No.-420 Year-2024 Thana- Excise P.S. District- Darbhanga

Ajay Kumar S/o Sri Yogendra Mandal Resident of Ward No.27, Ganga Sagar,
Allahpatti, P.S.- Laheriasarai, District- Darbhanga

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Dharendra Narain Mallik, Advocate
For the State : Mr. Narendra Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 11-09-2024 Heard Mr. Dharendra Narain Mallik, learned
counsel for the petitioner and Mr. Narendra Kumar Singh,
learned Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Darbhanga Sadar Excise P.S. Case No. 420 of
2024, F.I.R dated 11.06.2024 registered for the offences
punishable under Section 30(a) of Bihar Prohibition and Excise
Act.

3. Recovery is of 1.20 litres of country made 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 FIR
that petitioner is not named in the FIR the name of the petitioner
has been transpired during the investigation only on the basis



that he is the owner of the scooty in question. He further submits that it appears from the F.I.R that nothing has been recovered from the conscious possession of the petitioner rather the recovery has been made from the scooty in question. 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. He further submits that petitioner carries one more case other than the present one but fairly submits on the basis of the paragraph no.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, petitioner is not named in the FIR and his name has been transpired during the investigation only on the basis that he is the owner of the scooty in question, 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 Exclusive Special Judge of Special Excise Court-I, Darbhanga in connection with Darbhanga Sadar Excise P.S. Case No. 420 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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