

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.64314 of 2023

Arising Out of PS. Case No.-52 Year-2023 Thana- BALIYA District- Begusarai

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Pintu Kumar @ Pintu Mahto @ Pintu Kumar Singh Son of Devendra Prasad
Singh @ Mishri Lal Singh Resident of Village - Fatehpur, Naya Tola, P.S. -
Musrigharari, District - Samastipur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Jitendra Narain Sinha, Advocate

For the Opposite Party/s : Mr. Nand Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 29-02-2024 Heard Mr. Jitendra Narain Sinha, the learned

counsel for the petitioner and Mr. Nand Kumar, the learned

Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in

connection with Balia PS Case No. 52 of 2023, FIR dated

17.02.2023, registered for the offences punishable under

Sections 290 and 120(B) of the Indian Penal Code and under

Sections 30(a), 32, 41(i)(ii) of the Bihar Prohibition and Excise

Act.

3. Recovery is of 901.80 litres of country made liquor.

4. Learned counsel for the petitioner submits that

petitioner has falsely been implicated in the present case. He

further submits that upon perusal of the FIR it appears that

nothing has been recovered from the conscious possession of the



petitioner, rather the recovery has been made from the Bolero vehicle in question and the petitioner is neither the owner nor the driver of the said vehicle and petitioner has no concern at all with the alleged recovery or the vehicle in question or the co-accused persons and he has been made accused in this case on the ground that the petitioner has previous criminal antecedent of similar nature. 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 for the State 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 also submits that petitioner is named in the FIR and apart from that he carries 8 criminal cases of similar nature and hence his 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 circumstances and the fact that nothing has been recovered from conscious possession of the petitioner and he is neither an owner nor driver of the vehicle 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 anticipatory 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 Court of Exclusive Special Excise Judge-II, Begusarai, where the case is pending in connection with **Balia PS Case No. 52 of 2023**, subject to the conditions as laid down under Section 438(2) of the Cr.P.C. and also the 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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