

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.60049 of 2024

Arising Out of PS. Case No.-270 Year-2024 Thana- RAJAOLI District- Nawada

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Anil Kumar @ Anil Chaudhary @ Anil Kumar Chaudhary S/O Krishan Chaudhary, R/O Village- Ghasiadih, Police Station- Rajauli, District- Nawada.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner : Mr. Deepak Kumar, Advocate
For the Opposite Party : Mr. Anil Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 11-09-2024 Heard Mr. Deepak Kumar, the learned counsel for the petitioner and Mr. Anil Kumar, the learned Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Rajauli PS Case No. 270 of 2024, FIR dated 05.06.2024, registered for the offences punishable under Section 30(a) of the Bihar Prohibition and Excise Act.

3. Recovery is of 10.900 litres of foreign liquor.

4. Learned counsel for the petitioner submits that petitioner has clean antecedent and he has falsely been implicated in the present case. He further submits that according to the FIR and seizure list, altogether 10.900 litres of foreign liquor has been recovered from the house of the petitioner. He further submits that petitioner is not the exclusive owner of the



house in question, rather the said house is a joint property and in fact, nothing has been recovered from the conscious possession of 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 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.

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 mainly the facts that petitioner has clean antecedent and recovery has been made from the house in question, which is a



joint property, let the petitioner, above-named, in the event of his arrest or surrender before the learned trial Court 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 Exclusive Special Excise Court No. 2, Nawada, where the case is pending in connection with **Rajauli PS Case No. 270 of 2024**, 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 learned trial Court and shall remain physically present as directed by the learned trial Court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the learned trial Court.

(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 learned trial Court 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 learned trial Court shall take steps 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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