

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61519 of 2024

Arising Out of PS. Case No.-135 Year-2022 Thana- DHANKUND District- Banka

Saroj Kumar Ray Son of Pashupati Ray, R/o Ward No.- 12, Ramgawan, P.S.-
Mohiuddin Nagar, Distt.- Samastipur.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner : Mr. Manoj Kumar Jha, Advocate
For the Opposite Party : Ms. Shaheen Begum, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 06-09-2024 Heard Mr. Manoj Kumar Jha, the learned counsel
for the petitioner and Ms. Shaheen Begum, the learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Dhankund PS Case No. 135 of 2022, FIR dated
27.12.2022, registered for the offence punishable under Section
30(a) of the Bihar Prohibition and Excise Act.

3. Recovery is of 610.125 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 petitioner
is not named in the FIR and name of petitioner transpired during
investigation on the basis of disclosure made by the
apprehended co-accused persons in their defence statements and
except the aforesaid, no other cogent material has come during



investigation which suggests the involvement of the petitioner in the present occurrence. He lastly submits that the co-accused person namely, Sanjit Ray, who is the owner of the seized pick-up vehicle, has been granted the privilege of anticipatory bail by this Court vide order dated 09.10.2023 passed in Cr. Misc. No. 57809 of 2023.

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, he is not named in the FIR and similarly situated co-accused person



has been granted the privilege of anticipatory bail, 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 Additional District & Session Judge-II, Banka vide Special Excise Case No. 3041 of 2022, where the case is pending in connection with **Dhankund PS Case No. 135 of 2022**, 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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