

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.60317 of 2024

Arising Out of PS. Case No.-4 Year-2024 Thana- NAUGACHIA District- Bhagalpur

Krishna Kumar Rai Son of Kailash Rai Resident of Village- Tetri, PO- Tetri,
Police Station- Naugachia, Distt.- Bhagalpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Dr. Manoj Kumar, Advocate
	:	Mrs. Sweety Sinha, Advocate
For the Opposite Party/s	:	Mr. Rana Randhir Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 11-09-2024 Heard Mrs. Sweety Sinha, learned counsel for the

petitioner and Mr. Rana Randhir Singh, learned Additional

Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Naugacchia P.S. Case No. 4 of 2024, FIR dated 02.01.2024 registered for the offences punishable under Section 30(a), 32(II) of Bihar Prohibition and Excise Act.

3. Recovery is of 4 bottles of illicit liquor each containing 750 ml.

4. Learned counsel for the petitioner submits that the petitioner has clean antecedent. He has falsely been implicated in the present case. She further submits that from a bare perusal of the FIR it appears that the petitioner is not named in the FIR



and the name of the petitioner has been transpired during investigation on the basis that the petitioner is owner of the motorcycle in question from which recovery has been made. She further submits that except the aforesaid, no other cogent material has come during investigation against the petitioner to suggest the involvement of the petitioner in the present occurrence. In fact one Krishna Kumar, who is servant of the petitioner, has been apprehended with the illicit liquor along with the motorcycle 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 petitioners under the Bihar Prohibition and Excise Act.

5. Learned A.P.P. for the State has vehemently opposed the prayer for 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) PLJR 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 has clean antecedent and the name of the petitioner has been transpired during investigation on the basis that the petitioner is owner of the motorcycle 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 learned Additional District and Sessions Judge-12-cum-Special Excise Judge-2, Bhagalpur in connection with Naugacchia P.S. Case No. 4 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/her absence on two consecutive dates without sufficient reason, his/her 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/her 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)

Nitesh/-Harshita

U		T	
---	--	---	--

