

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.60323 of 2024**

Arising Out of PS. Case No.-706 Year-2024 Thana- Excise P.S. District- Aurangabad

Ashok kumar Priyadarshi S/o Surydev singh R/O Village-Lahiyarpur, P.S-  
Mali, District-Aurangabad ... .. Petitioner/s

Versus

The State of Bihar ... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mrs. Mukul Kumari, Advocate

For the Opposite Party/s : Mr. Parmanand Prasad, APP

**CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA**  
**ORAL ORDER**

2      11-09-2024                      Heard Mrs. Mukul Kumari learned counsel for the  
  
petitioner and Mr. Parmanand Prasad, learned Additional Public  
  
Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with G.R. No. 1264 of 2024 arising out of Excise P.S.Case No.706 of 2024, FIR dated 22.07.2024 registered for the offences punishable under Section 30(a), 32(3) of Bihar Prohibition and Excise Act, 2018 and Sections 41(1),41(2) of the Bihar Prohibition and Excise Act, 2016.

3. Recovery is of 319.680 litres of illicit liquor.

4. Learned counsel for the petitioner submits that the petitioner has clean antecedent and he has falsely been implicated in the present case. She further submits that it appears from the FIR as well as the seizure list that the recovery has been made from the Scorpio in question and the petitioner has been made accused in the present case merely on the ground



that the petitioner is owner of the Scorpio in question. In fact the petitioner has given the Scorpio in question to co-accused person, namely, Neeraj Kumar, who happens to be the driver of the Scorpio in question and who has been arrested alongwith one other co-accused person and recovery has been made from the vehicle 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 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 he has been made accused in the present case



merely on the ground that the petitioner is owner of the Scorpio 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 Special Judge of Excise -II, Aurangabad, in connection with G.R. No.1264 of 2024 arising out of Excise P.S.Case No.706 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

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