

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.62985 of 2024

Arising Out of PS. Case No.-655 Year-2022 Thana- MOHANIYA District- Kaimur (Bhabua)

Raja Babu @ Raja S/O Sri Vishvnath Sah R/O Village- Shiv ganj Amra Talab,
P.S- Sasaram, Distt.- Rohtas.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Dharmendra Singh, Advocate

For the Opposite Party/s : Mr. Gauri Shankar Gupta, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 20-09-2024 Heard Mr. Dharmendra Singh, learned counsel for
the petitioner and Mr. Gauri Shankar Gupta, learned Additional
Public Prosecutor for the State.

2. The petitioner is apprehending his arrest connection
with Mohania P.S. Case No. 655 of 2022, F.I.R. dated
06.12.2022 registered for the offences punishable under
Sections 30(a), 47 of the Excise Act and Section 414 of the
Indian Penal Code.

3. Recovery is of 190.86 liters of illicit *English* liquor.

4. Learned counsel for the petitioner submits that the
petitioner is innocent and he has falsely been implicated in the
present case. He further submits that from perusal of the F.I.R. it
appears that nothing has been recovered from the conscious
possession of the petitioner rather recovery has been made from



the vehicle (*Magic Van*) in question and the name of the petitioner has been transpired on the basis of disclosure made by a driver namely Sharwan Bind and except the aforesaid, no other material has come during investigation to suggest the involvement of the petitioner in the present occurrence. Therefore, the recovery cannot be attributed to 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 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. He further submits that the petitioner carries two more case of similar nature other than the present one but fairly submits on the basis of paragraph-3 of the bail petition that the petitioner is on bail in the pending matters.

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, nothing has been recovered from conscious possession or the house of the petitioner and the petitioner having clean antecedent, 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 Excise Court No. 1st cum A.D.J. 4th, Kaimur at Bhabua in connection with Mohania PS. Case No. 655 of 2022, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure and with other following conditions:-

1. 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.

2. 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.

3. 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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