

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.63141 of 2024

Arising Out of PS. Case No.-201 Year-2024 Thana- NEMDARGANJ District- Nawada

Rohit Kumar Son of Ratan Yadav, Resident of Village- Nemdarganj, P.S.-
Nemdarganj, District- Nawada.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner : Mr. Manmohan Kumar, Advocate
For the Opposite Party : Mr. Parmanand Prasad, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 02-12-2024 Heard Mr. Manmohan Kumar, the learned counsel
for the petitioner and Mr. Parmanand Prasad, the learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Nemdarganj PS Case No. 201 of 2024, FIR
dated 22.06.2024, registered for the offences punishable under
Sections 30(a) and 41 of the Bihar Prohibition and Excise Act.

3. Recovery is of 76 litres of country made liquor.

4. Learned counsel for the petitioner submits that
petitioner has falsely been implicated in the present case and the
allegation levelled in the FIR is false and fabricated. He further
submits that according to the FIR and seizure list nothing has
been recovered from the conscious possession of the petitioner,
rather the recovery has been made from the motorcycle in
question and the motorcycle in question does not belong to the



petitioner. He further submits that name of the petitioner transpired on the basis of disclosure made by local chowkidar. He further submits that the co-accused person namely, Vikash Kumar @ Vikash Yadav has been granted the privilege of anticipatory bail by this Court vide order dated 03.10.2024 passed in Cr. Misc. No. 67554 of 2024. 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. He further submits that petitioner carries three criminal antecedents other than the present one, however, he fairly submits on the basis of supplementary affidavit that the petitioner is on bail in all 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 and circumstances and mainly the facts that nothing has been recovered from conscious possession of the petitioner 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 Exclusive Special Excise Court-1, Nawada, where the case is pending in connection with **Nemdarganj PS Case No. 201 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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