

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.64790 of 2024

Arising Out of PS. Case No.-192 Year-2024 Thana- ATHMALGOLA District- Patna

Nitish Kumar S/O- Nagendra Rai @ Nag Rai R/o- Naya Tola Raghapur Ps-
Bakhtiyarpur Dist- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Niranjan Prasad Singh, Advocate

For the Opposite Party/s : Mr.Ramesh Chandra,APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 01-10-2024 Heard Mr.Niranjan Prasad Singh, learned counsel
for the petitioner and Mr.Ramesh Chandra, learned Additional
Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Athmalgola P.S.Case No.192 of 2024, FIR dated 24.06.2024 registered for the offences punishable under Section 30(a) of Bihar Prohibition and Excise Act.

3. Recovery is of 98 liters of country made liquor.

4. Learned counsel for the petitioner submits that the petitioner has clean antecedent. He has falsely been implicated in the present case. It appears from the FIR as well as the seizure list that nothing has been recovered from conscious possession of the petitioner rather the recovery has been made from the motorcycle in question and petitioner has no concern at



all with the alleged recovery of illicit liquor or the motorcycle in question and the name of the petitioner has been transpired during investigation on the basis of the disclosure made by co-accused person, namely, Sachin Kumar and 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. 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. 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, nothing has been recovered from conscious possession of the petitioner, 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 Spl. Exclusive Excise Judge, Barh in connection with Athmalgola P.S.Case No.192 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/-

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

