

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.64523 of 2024

Arising Out of PS. Case No.-385 Year-2024 Thana- Excise P.S. District- Nawada

Vikash Kumar son of Ajay Paswan @ Jaynandan Paswan Village -Tungi
Bazar PS- Hisua Distt- Nawada

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Ms. Suruchi Anand, Advocate

For the Opposite Party/s : Md. Aslam Ansari, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 01-10-2024 Heard Ms. Suruchi Anand, learned counsel for the

petitioner and Md. Aslam Ansari, learned Additional Public

Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Excise P.S. Case No.385 of 2024, F.I.R. dated 25.05.2024 for the offences punishable under Section 30(a) of the Prohibition and Excise Act,2016.

3. According to prosecution case, the recovery is of 15 litres of country made liquor.

4. Learned counsel for the petitioner submits that petitioner has clean antecedent and he has falsely been implicated in the present case merely on the basis of the disclosure made by the co-accused person, namely, Daulti Devi, who happens to be the mother of the petitioner. He further



submits that from a bare perusal of the FIR as well as seizure list it appears that nothing has been recovered from the conscious possession of the petitioner and except the disclosure made by the co-accused person no other material has come during the investigation 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. The learned Additional Public Prosecutor, 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.

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,



let the petitioner, above named, in the event of 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 the learned Exclusive Special Court, Excise-2, Nawada in connection with Excise P.S. Case No.385 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 absence on two consecutive dates without sufficient reason, his 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 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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