

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.64627 of 2024

Arising Out of PS. Case No.-224 Year-2021 Thana- GOVERNMENT OFFICIAL COMP.
District- Vaishali

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Vijendra Rai @ Vijendra Kumar @ Virendra Rai Son of Ganga Sagar Rai, R/o
Village- Terasiya, Ward No.12, P.S.- Ganga Bridge, District- Vaishali.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner/s : Ms. Kahkashan Alam, Advocate
For the Opposite Party/s : Ms. Gauri Shankar Gupta, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 01-10-2024 Heard Ms. Kahkashan Alam, the learned counsel

for the petitioner and Ms. Gauri Shankar Gupta, the learned

Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Ganga Bridge PS Case No. C 2 A. 224 of 2021,
FIR dated 21.11.2021, registered for the offences punishable
under Sections 30(a), 30(c), 32(1), 41(1) and 41(2) of the
Indian Penal Code and under Section 30(a) of the Bihar
Prohibition and Excise Act.

3. Recovery is of 800 litres of Jawa liquor, 10 litres of
chulai 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, it appears that no case is made out under Bihar Prohibition and Excise Act against the petitioner and it is evident from the FIR itself that nothing has been recovered from the conscious possession or the house of the petitioner and he has been made accused in the present case merely on the ground that local villagers have informed the police that the petitioner was involved in the present crime in question. There is non-compliance with mandatory procedure prescribed for recovery under Section 100 of Cr.P.C.

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 is named in the FIR and apart from that petitioner carries two criminal antecedents other than the present one, however, he fairly admits that his other antecedents are not of similar nature and 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 and circumstances and mainly the facts nothings has been recovered from the conscious possession or house of the petitioner and he has been made accused in the present case due to petty village politics, 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 Court of Special Excise Court No. 2 and Additional District and Session Judge-II, Vaishali at Hajipur, where the case is pending in connection with **Ganga Bridge PS Case No. C 2 A. 224 of 2021**, 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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