

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.64355 of 2024

Arising Out of PS. Case No.-22 Year-2024 Thana- IMADPUR District- Bhojpur

Mahendra Singh S/o Late Rang Bihari Singh @ Rangabihari Singh Resident
of Village- karath, P.S- tarari, District- Bhojpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr. Umesh Lal Verma, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 01-10-2024 Heard Mr. Dharmendra Kumar Singh, learned
counsel for the petitioner and Mr. Umesh Lal Verma, learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Imadpur P.S. Case No. 22 of 2024, F.I.R dated
14.03.2024 registered for the offences punishable under Section
30(a) of Bihar Prohibition and Excise Amendment Act, 2018.

3. Recovery is of 49 liters of country made Mahua
liquor.

4. Learned counsel for the petitioner submits that
the petitioner is innocent and has falsely been implicated in the
present case merely on the ground that the petitioner is the
owner of the motorcycle in question from where the recovery
has been made. He further submits that the petitioner is a



handicapped person and he cannot ride a motorcycle. 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 recovery has been made from the motorcycle in question which belongs to the petitioner and apart from that the petitioner carries one criminal antecedent 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 matter.

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 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 the learned Exclusive Special Excise Judge 1st, Bhojpur, Ara in connection with Imadpur P.S. Case No. 22 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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