

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.67749 of 2024

Arising Out of PS. Case No.-254 Year-2024 Thana- RAJNAGAR District- Madhubani

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ARJUN KUMAR @ ARJUN KUMAR RAY S/O RAMDEV RAY R/o
Village- Patwara, P.S.- Raj Nagar, District- Madhubani

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Abu Nasar, Advocate
For the Opposite Party/s : Mr.Nand Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 03-10-2024 Heard Mr.Abu Nasar, learned counsel for the

petitioner and Mr.Nand Kumar, learned Additional Public

Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Rajnagar P.S.Case No.254 of 2024,
(G.R.No.971 of 2024), FIR dated 09.07.2024 registered for the
offences punishable under Sections 274,275 of Bhartiya Nyaya
Sanhita, 2024 (hereinafter ‘BNS’) and Section 30(a) of Bihar
Prohibition and Excise (Amendment) Act, 2016.

3. Recovery is of 14.720 liters of illegal 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 Prithvi Lab, Raj Nagar and petitioner has been made accused in the present case merely on the ground that the petitioner is owner of said Prithvi Lab, Raj Nagar. Learned counsel for the petitioner has produced the certificate issued by the Civil Surgeon, Madhubani which suggests that the petitioner is not the owner of said Prithvi Lab, Raj Nagar and one Sri Hani Harsh Kumar is the owner of Prithvi Lab, Raj Nagar. 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 petitioners 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 and the petitioner has been made accused in the present case merely on the ground that the petitioner is owner of Prithvi Lab, Raj Nagar, 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 Addl. Sessions Judge-II-cum-Special Judge, Excise Act, Madhubani in connection with Rajnagar P.S.Case No.254 of 2024, (G.R.No.971 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)

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