

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.64316 of 2024

Arising Out of PS. Case No.-7 Year-2024 Thana- AMAUR District- Purnia

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Deepan Kumar Sah @ Deepen Kumar Sah S/o Manoj Gupta Resident of
Chakai, ward no. 06, PS- Jokihat, District- Araria

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Md. Fazle Karim, Advocate

For the Opposite Party/s : Mr. Sanjay Kumar Pandey, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 01-10-2024 Heard Md. Fazle Karim, learned counsel for the

petitioner and Mr. Sanjay Kumar Pandey, learned Additional

Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Amour P.S. Case No. 07 of 2024, F.I.R dated
06.01.2024 registered for the offences punishable under
Sections 272 and 273 of the Indian Penal Code and Section
30(a) of Bihar Prohibition and Excise Act.

3. Recovery is of 10.440 liters of country made
liquor.

4. Learned counsel for the petitioner submits that
the petitioner is innocent and he has falsely been implicated in
the present case. He further submits that it appears from the
F.I.R that 4.440 liters of liquor has been recovered from the



motorcycle bearing registration no. BR11AZ4391 and 6 liters of liquor has been recovered from the motorcycle bearing registration no. BR11BF7517 and the petitioner is the owner of the motorcycle bearing registration no. BR11BF7517. He further submits that the petitioner was not arrested on the spot and nothing has been recovered from the conscious possession of the petitioner. In fact, the motorcycle of the petitioner has been taken by his neighbour. 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 of 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 Judge, Excise, Court No. 2, Purnea in connection with Amour P.S. Case No. 07 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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