

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.64755 of 2024

Arising Out of PS. Case No.-265 Year-2023 Thana- KATRA District- Muzaffarpur

Deepak Kamti @ Deepak Kumar Son of Sri Mohan Kamti, R/O Vill.- Indra Bazar, P.S.- Katra (Jajuar O.P.), Dist.- Muzaffarpur.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Ravi Ranjan, Advocate

For the Opposite Party/s : Ms. Sharda Kumari, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 01-10-2024 Heard Mr. Ravi Ranjan, the learned counsel for the petitioner and Ms. Sharda Kumari, the learned Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Katra PS Case No. 265 of 2023, FIR dated 22.09.2023, registered for the offence punishable under Section 30(a) of the Bihar Prohibition and Excise Act.

3. Recovery is of 7.2 litres of foreign liquor.

4. Learned counsel for the petitioner submits that petitioner has falsely been implicated in the present case. He further submits that according to the FIR and seizure list, nothing has been recovered from the conscious possession of the petitioner, rather the recovery has been made from in front of the house of one Bahadur Mandal and petitioner has been made accused in the present case merely on the ground of



suspicion / confidential information and except the aforesaid, no other cogent material has come during investigation which suggests that 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 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. Apart from that, petitioner carries one criminal antecedent of similar nature other than the present, but fairly admits that 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 and mainly the fact that petitioner has been made accused in the present case merely on the basis of suspicion / confidential information, 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 Special Judge Excise Court No.III, Muzaffarpur, where the case is pending in connection with **Katra PS Case No. 265 of 2023**, 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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