

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.64752 of 2024

Arising Out of PS. Case No.-142 Year-2021 Thana- SUPPI District- Sitamarhi

Prakash Kumar Singh Son of Arun Kumar Singh, Resident of Village -
Rampur Sah, P.S.- Kanti, District - Muzaffarpur.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

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

For the Opposite Party/s : Mr. Surendra Kumar, 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 Mr. Surendra Kumar, the learned Additional
Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Suppi PS Case No. 142 of 2021, FIR dated
30.07.2021, registered for the offence punishable under Section
30(a) of the Bihar Prohibition and Excise Act.

3. Recovery is of 459 litres of Nepali Sofee liquor.

4. Learned counsel for the petitioner submits that
petitioner has clean antecedent and he has falsely been
implicated in the present case. He further submits that name of
the petitioner transpired on the basis that petitioner is the owner
of the motorcycle from which the alleged recovery has been
made. He further submits that the motorcycle of the petitioner
was stolen for which he has also lodged an FIR in connection



with Brahmpura P.S. Case No. 217 of 2021, in spite of that, the petitioner has been made accused in the present case. 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.

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 that petitioner has clean antecedent and he has been made accused in the present case merely on the ground



that he is owner of the motorcycle in question, however, the said motorcycle was stolen and petitioner has also registered and FIR for the motorcycle in question, 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 Exclusive Special Excise Court No. 1, Sitamarhi, where the case is pending in connection with **Suppi PS Case No. 142 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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