

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.64873 of 2024

Arising Out of PS. Case No.-86 Year-2024 Thana- ARER District- Madhubani

Ashok Sahni @ Ashok Kumar Sahni Son of Ram Ratan Sahni village- Ektara,
Ps- Arer, Dist- Madhubani

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Subhash Kumar Jha, Advocate

For the Opposite Party/s : Mr.Nagendra Prasad, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 01-10-2024 Heard Mr.Subhash Kumar Jha, learned counsel for
the petitioner and Mr.Nagendra Prasad, learned Additional
Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Arer P.S.Case No.86 of 2024, corresponding to G.R.No.985 of 2024, FIR dated 11.07.2024 registered for the offences punishable under Sections 274,275 of Bhartiya Nayay Sanhita, 2023 and Section 30(a) of Bihar Prohibition and Excise Amendment Act, 2022.

3. Recovery is of 22.2 liters of illegal wine.

4. Learned counsel for the petitioner submits that the petitioner has clean antecedent and he has falsely been implicated in the present case on the basis of information furnished by the local villagers. Further submits from a bare



perusal of the FIR as well as the seizure list it appears that nothing has been recovered from conscious possession of the petitioner rather the recovery has been made from the bank of the canal which is an open place and petitioner has no concern at all with the alleged recovery of illicit liquor. 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 and nothing has been recovered from conscious possession of the petitioner, 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 Additional Sessions Judge-2nd-cum-Special Judge, Excise Act, Madhubani in connection with Arer P.S.Case No.86 of 2024, corresponding to G.R.No.985 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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