

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.64763 of 2024

Arising Out of PS. Case No.-234 Year-2024 Thana- MANJHI District- Saran

Arbind Choudhary Son of Jugeshwar Chaudhary Resident of Village -
Katokhar, P.S. - Manjhi, District - Saran at Chapra, (Bihar)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rakesh Kumar, Advocate

For the Opposite Party/s : Mr. Braj Kishore Pd.(App)

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 01-10-2024 Heard Mr. Rakesh Kumar, the learned counsel for
the petitioner and Mr. Braj Kishore Pd., the learned Additional
Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Manjhi PS Case No. 234 of 2024, FIR dated
22.07.2024, registered for the offences punishable under Section
30(a) of the Bihar Prohibition and Excise Act.

3. Recovery is of altogether 30 litres of country made
liquor.

4. Learned counsel for the petitioner submits that
petitioner has falsely been implicated in the present case. He
further submits that although there is specific allegation against
the petitioner that alleged recovery has been made from the
poultry farm of the petitioner, however, from the perusal of the



FIR it is evident that nothing has been recovered from the conscious possession of the petitioner and petitioner has been made accused in the present case merely on the basis of suspicion. 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, he submits that recovery has been made from the poultry farm of the petitioner and petitioner carries one criminal antecedent other than the present of similar nature, but he 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 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 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 2nd Exclusive Special Excise Judge, Saran at Chapra, where the case is pending in connection with **Manjhi PS Case No. 234 of 2024**, 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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