

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.67382 of 2024

Arising Out of PS. Case No.-180 Year-2023 Thana- HISUWA District- Nawada

Chhote Chaudhary @ Chhotelal Chaudhary Son of Late Chando Chaudhary
Resident of Village- Daulatpur, P.S.- Hisua, District- Nawada.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Man Mohan Kumar, Advocate

For the Opposite Party/s : Mr. Narsingh Tanti, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 03-10-2024 Heard Mr. Man Mohan Kumar, learned counsel for
the petitioner and Mr. Narsingh Tanti, learned Additional Public
Prosecutor for the State.

2. The petitioner is apprehending his arrest connection
with Hisua P.S. Case No. 180 of 2023, F.I.R. dated 10.04.2023
registered for the offences punishable under Section 30(a) of
the Bihar Prohibition & Excise Act, 2016.

3. Recovery is of 20 liters of countrymade 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 from perusal of the F.I.R. it
appears that nothing has been recovered from the conscious
possession of the petitioner rather recovery has been made from
the newly constructed house of the petitioner and altogether 20



litres of country made liquor was recovered. He further submits that the petitioner has no concern at all with the alleged recovery of illicit liquor and he has been made accused on the basis that recovery has been made from the newly constructed house of the petitioner. Therefore, the recovery cannot be attributed to the petitioner. 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 petitioner carries one more case of similar nature other than the present one.

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, 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 Exclusive Special Excise Court-1, Nawada in connection with Hisua PS. Case No. 180 of 2023, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure and with other following conditions:-

1. 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.

2. 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.

3. 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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