

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.64493 of 2024

Arising Out of PS. Case No.-55 Year-2024 Thana- KAJRA District- Lakhisarai

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Santosh Kumar S/o- Ram Lakhan Saw @ Lakhan Saw Village- Shivdih Ps-
Kajra Dist- Lakhisarai

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

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

For the Opposite Party/s : Mr. Ramesh Chandra, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 01-10-2024 Heard Mr. Mukesh Kumar, learned counsel for the

petitioner and Mr. Ramesh Chandra, learned Additional Public

Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Kajra P.S. Case No. 55 of 2024, F.I.R dated
19.05.2024 registered for the offences punishable under Section
30(a) of Bihar Prohibition and Excise Act.

3. Recovery is of 40 liters of country made liquor.

4. Learned counsel for the petitioner submits that
the petitioner has clean antecedent and he has falsely been
implicated in the present case merely on the ground that the
petitioner is owner of the vehicle in question. He further submits
that it appears from the F.I.R that altogether 40 litres of country
made liquor has been recovered from a *toto*. He further submits



that nothing has been recovered from the conscious possession of the petitioner and he has been made accused merely on the ground that he is owner of the vehicle in question. 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. 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, nothing has been recovered from conscious possession of the petitioner and the



petitioner has clean antecedent, 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 the learned Addl. District and Sessions Judge, V cum Special Excise Court- 2nd Lakhisarai in connection with Kajra P.S. Case No. 55 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 absence on two consecutive dates without sufficient reason, his 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 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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