

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.67724 of 2024

Arising Out of PS. Case No.-314 Year-2024 Thana- CHIRAIYA District- East Champaran

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Lalbabu Baitha @ Sujit Baitha Son of Bhairaw Baitha @ Bhairav Baitha @
Bhairau Baitha Resident of Village- Barwa, (Ganesh Tola), P.S.-Lakhaura,
District- East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Ajay Kumar Singh, Advocate

For the Opposite Party/s : Mr.Manoj Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 03-10-2024 Heard Mr.Ajay Kumar Singh, learned counsel for

the petitioner and Mr.Manoj Kumar, learned Additional Public

Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Chiraiya P.S.Case No.314 of 2024, FIR dated
25.07.2024 registered for the offences punishable under
Sections 30(a),37,41(i) of Bihar Prohibition and Excise
(Amendment)Act.

3. Recovery is of 10 liters of country made liquor and
540 Ml of foreign liquor.

4. Learned counsel for the petitioner submits that the
petitioner has clean antecedent. He has falsely been implicated
in the present case. As per allegation in the FIR that the



petitioner has fled away from the place of occurrence and altogether 10 liters of country made liquor and 540 ML of foreign liquor was recovered from the motorcycle in question. Further submits that the petitioner has no concern at all with the alleged recovery of illicit liquor or the motorcycle in question and the petitioner has been made accused in the present case on the basis of disclosure made by co-accused person, namely, Sunny Kumar. 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 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, nothing has been recovered from conscious possession of the petitioner and he has been made accused in the present case on the basis of disclosure made by co-accused person, namely, Sunny Kumar, 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 No.-01, East Champaran at Motihari in connection with Chiraiya P.S.Case No.314 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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