

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.66943 of 2024

Arising Out of PS. Case No.-29 Year-2024 Thana- BALIGAON District- Vaishali

Rajan kumar S/o Akhilesh Pandit Resident of village- Aggrail @ Aggrail khurd, Police Station- Baligaon, District- Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Md. Iftekhar Mahmood, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 20-09-2024 Heard Mr. Dharmesh Kumar, learned counsel for the petitioner and Md. Iftekhar Mahmood, learned Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Baligaon P.S. Case No. 29 of 2024, F.I.R dated 31.03.2024 registered for the offences punishable under Section 30(a) of Bihar Prohibition and Excise (Amendment) Act, 2022.

3. Recovery is of 50.85 liters of foreign liquor.

4. Learned counsel for the petitioner submits that the petitioner has clean antecedent and has falsely been implicated in the present case. He further submits that the allegation as alleged in the F.I.R is false and fabricated. He further submits that it appears from the F.I.R that nothing has been recovered from the possession of the petitioner. The name



of the petitioner has been transpired on the basis of the information furnished by the local *chowkidar* and except the aforesaid, no other cogent material has come during investigation which suggest the involvement of he petitioner in the present occurrence. He further submits that the similarly situated co-accused, namely, Dahrmendra Das has been granted anticipatory bail by a Co-ordinate Bench of this Court vide order dated 16.05.2024 passed in Cr. Misc. No. 34964 of 2024 and another co-accused, namely, Ankit Kumar @ Amitabh Aman has also been granted anticipatory bail by this Court vide order dated 26.06.2024 passed in Cr. Misc. No. 38157 of 2024. 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.

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 that 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 Exclusive Special Excise Court No. 1-cum-Additional District & Sessions Judge, Vaishali at Hajipur in connection with Baligaon P.S. Case No. 29 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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