

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.67682 of 2024

Arising Out of PS. Case No.-329 Year-2024 Thana- DHAKA District- East Champaran

Tarun Mishra @ Tarun Kumar Mishra S/O Satyendra Mishra R/O Village-
Karamwa, P.S- Dhakha, Distt.- East Champaran. at Motihari.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

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

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 03-10-2024 Heard Mr.Sanjay Kumar, learned counsel for the

petitioner and Mr.Rabindra Kumar, learned Additional Public

Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Dhaka P.S.Case No.329 of 2024, FIR dated
04.08.2024 registered for the offences punishable under
Sections 30(a),41 of Bihar Prohibition and Excise Act, 2016.

3. Recovery is of 29.770 liters of Nepali and English
liquor.

4. Learned counsel for the petitioner submits that the
petitioner has falsely been implicated in the present case. It
appears from the FIR as well as the seizure list that altogether
29.770 liters of Nepali and English liquor was recovered from
the house of the petitioner. Learned counsel for the petitioner



submits that the petitioner is not living in that house and the said house is without any door and window and it appears from the FIR itself that nothing has been recovered from conscious possession of 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 petitioners 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. Further submits that the recovery was made from the house of the petitioner and apart from that the petitioner carries one more case other than the present one but fairly submits that the petitioner has been acquitted by the learned court below itself vide order dated 18.05.2023, as mentioned in paragraph-3 of the anticipatory bail petition.

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, nothing has been recovered from conscious possession of the petitioner and petitioner has been made accused in the present case on the ground that the petitioner is owner of the house in question, 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) Judge Court No.-3, East Champaran, Motihari in connection with Dhaka P.S. Case No.329 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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