

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.67608 of 2024**

Arising Out of PS. Case No.-38 Year-2023 Thana- MADHUBANI TOWN District-
Madhubani

Md. Zeyaur Rahman Son of Md. Sabir Resident of Village - Muria, Police
Station - Town, District - Darbhanga

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Bhavesh Sah, Advocate
For the Opposite Party/s : Mr. Rajendra Singh, APP

**CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER**

2 03-10-2024 Heard Mr. Bhavesh Sah, learned counsel for the

petitioner and Mr. Rajendra Singh, learned Additional Public

Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Town P.S. Case No. 38 of 2023 (G.R Case No.
222 of 2023), F.I.R dated 01.02.2023 registered for the offences
punishable under Section 30(a) of Bihar Prohibition and Excise
Act.

3. Recovery is of total 315 liters of illicit liquor.

4. Learned counsel for the petitioner submits that
the petitioner has clean antecedent and he has falsely been
implicated in the present case. He further submits that it appears
from the F.I.R as well as seizure list that nothing has been



recovered from the conscious possession of the petitioner rather the recovery has been made from pulsar motorcycle and alto car. He further submits that the name of the petitioner has been transpired on the basis of the fact that the petitioner is the owner of the pulsar motorcycle 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. 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, petitioner has been made accused only on the ground that he is the owner of the motorcycle in question and he 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 2nd Additional Sessions Judge cum Special Judge Excise Act, Madhubani in connection with Town P.S. Case No. 38 of 2023 (G.R Case No. 222 of 2023), 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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