

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.68057 of 2024

Arising Out of PS. Case No.-587 Year-2023 Thana- SHERGHATI District- Gaya

Md. Nisar S/O Md. Sirajuddin R/O Village- Indra, P.S- Charhi, Distt.-
Hazaribagh (Jharkhand).

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Priya Ranjan, Advocate

For the Opposite Party/s : Ms. Veena Kumari Jaiswal, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 20-09-2024 Heard Mr. Priya Ranjan, learned counsel for the

petitioner and Ms. Veena Kumari Jaiswal, learned Additional

Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Sherghati (Dobhi O.P.) P.S. Case No. 587 of 2023, F.I.R dated 05.06.2023 registered for the offences punishable under Sections 30(a), 32 (ii), (iii), 36 and 41 (I), (iii) of Bihar Prohibition and Excise Amendment Act, 2022.

3. Recovery is of 2976 liters of liquor.

4. Learned counsel for the petitioner submits that the petitioner is innocent and he has falsely been implicated in the present case. 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 truck in question from where the



recovery has been made. He further submits that the date of occurrence as alleged in the F.I.R is 05.06.2023 but the petitioner has sold the said truck by way of sale agreement dated 20.04.2023 to one Ranjeet Kumar son of Tapeswar Yadav. 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. She further submits that the petitioner carries one criminal antecedent other than the present one but fairly submits on the basis of paragraph 3 of the bail petition that the petitioner is on bail in the pending matter.

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 and circumstances, 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. V, Gaya in connection with Sherghati (Dobhi O.P.) P.S. Case No. 587 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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