

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71282 of 2024

Arising Out of PS. Case No.-1 Year-2021 Thana- MOTIHARI MUFASIL District- East
Champaran

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Dharmdeo Mukhiya Son of Bishwanath Mukhia @ Visvnath Mukhiya
Resident of Village - Hasuaha, P.S. - Muffasil Motihari, District - East
Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mrs. Alka Singh, Advocate

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

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 27-09-2024 Heard Mrs. Alka Singh, learned counsel for the

petitioner and Mr. Mritunjay Kumar Nirala, learned Additional

Public Prosecutor for the State.

2. The petitioner is apprehending his arrest connection
with Mufassil P.S. Case No. 01 of 2021, F.I.R. dated 01.01.2021
registered for the offences punishable under Sections 30(a), 32,
41(i) of the Bihar Prohibition & Excise Amendment Act, 2018.

3. Recovery is of 100 liters of countrymade 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 allegation as alleged in
the F.I.R. is false and fabricated and the petitioner has not
committed any offence as alleged in the F.I.R. and the name of



the petitioner has been transpired on the basis of disclosure made by local Choukidar and except the aforesaid, no other material has come during investigation to suggest the involvement of the petitioner in the present occurrence. He further submits that nothing has been recovered from the conscious possession of the petitioner and the petitioner has no concern at all with the alleged recovery of illicit liquor. Therefore, the recovery cannot be attributed to 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 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. He further submits that the petitioner carries one more case of similar nature other than the present one.

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 of the case and the fact that nothing has been recovered from conscious possession of the petitioner, 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. 1, East Champaran, Motihari in connection with Muffasil PS. Case No. 01 of 2021, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure and with other following conditions:-

1. 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.

2. 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.

3. 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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