

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71989 of 2024

Arising Out of PS. Case No.-775 Year-2020 Thana- MASAUDHI District- Patna

Praduman Kumar @ Pradum Kumar Son of Nagendra Yadav Resident of
Village- Badroi, P.S.- Masaurhi, and New P.S.- Lahsuna, Dist.- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Barun Prasad, Advocate

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

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 04-10-2024 Heard Mr.Barun Prasad, learned counsel for the
petitioners and Ms.Veena Kumari Jaiswal, learned Additional
Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Special Case No.7663 of 2020 arising out of Masaurhi P.S.Case No.775 of 2020,FIR dated 25.12.2020 registered for the offences punishable under Sections 30(a),30(c) of Bihar Prohibition and Excise Act, 2018.

3. Recovery is of 12 liters of illicit country made Mahua liquor.

4. Learned counsel for the petitioner submits that the petitioner has clean antecedent. He has falsely been implicated in the present case on the basis of secret information and it appears from the FIR as well as the seizure list that nothing has



been recovered from conscious possession of the petitioner rather the recovery has been made from the place of occurrence and the petitioner has no concern at all with the alleged recovery of illicit liquor or the equipments which was recovered from the place of occurrence and co-accused person, namely, Saroj Kumar has been granted privilege of anticipatory bail by this Court vide order dated 07.08.2024 passed in Cr. Misc. No.47615 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 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.

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, petitioner has clean antecedent, nothing has been recovered from conscious possession of the petitioner and co-accused person, namely, Saroj Kumar has been granted privilege of anticipatory bail by this Court, 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 Special Judge, Excise-III, Patna in connection with Special Case No.7663 of 2020 arising out of Masaurhi P.S. Case No.775 of 2020, 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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