

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.74082 of 2023

Arising Out of PS. Case No.-357 Year-2023 Thana- RAJAOLI District- Nawada

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BABLU CHAUDHARY Son of Sikandra Chaudhary Resident of Village -
Dhamni, P.S.- Rajauli, District - Nawada

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sheo Kumar Prasad, Advocate
For the State : Mr. Kumar Veerendra Narayan, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 29-02-2024 Heard Mr. Sheo Kumar Prasad, learned counsel for

the petitioner and Mr. Kumar Veerendra Narayan, learned

Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Rajauli P.S. Case No.357 of 2023, F.I.R. dated
25.06.2023 for the offences punishable under Sections 30(a) and
41 of the Bihar Prohibition and Excise Act.

3. Recovery is of 15 liters of country made liquor.

4. Learned counsel for the petitioner submits that the
petitioner has clean antecedent and has falsely been implicated
in the present case. He further submits that from a bare perusal
of the FIR as well as seizure list it appears that nothing has been
recovered from the conscious possession of the petitioner rather
the recovery has been made from the house of the petitioner. He



further submits that the petitioner is not the exclusive owner of the house in question and on the basis of the secret information, the petitioner and another co-accused person, namely, Soni Choudhary kept the liquor in their house, the present FIR has been instituted and there is non-compliance of Section 100 of Cr.P.C and nothing has been recovered from the conscious possession of the petitioner. 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, nothing has



recovered from the conscious possession of the petitioner, petitioner is not the owner of the house in question and the petitioner 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 Exclusive Special Excise Court-2, Nawada in connection with Rajauli P.S. Case No. 357 of 2023, 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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