

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.6 of 2024

Arising Out of PS. Case No.-811 Year-2023 Thana- SHERGHATI District- Gaya

Nand Kishor Kumar S/O Late Raja Ram Singh Village- Kurmawan, P.O. And
Ps. Khatangi, Mow, Dist. Arwal.

... .. Petitioner/S

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Anil Kumar Sinha, Advocate

For the Opposite Party/s : Mrs.Nirmala Kumari, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 27-02-2024 Heard Mr.Anil Kumar Sinha, learned counsel for the

petitioner and Mrs.Nirmala Kumari, learned Additional Public

Prosecutor for the State.

2. Let the defect No.6(1) be ignored.

3. The petitioner is apprehending his arrest in
connection with Sherghati P.S.Case No.811 of 2023,FIR dated
22.07.2023 registered for the offences punishable under Section
30(a) of Bihar Prohibition and Excise Act, 2016.

4. Recovery is of 10.125 liters of English liquor.

5. Learned counsel for the petitioner submits that the
petitioner has clean antecedent. He has falsely been implicated
in the present case. Further submits that from a bare perusal of
the FIR as well as the seizure list that nothing has been
recovered from conscious possession of the petitioner and the



petitioner is owner of the motorcycle in question so his name has been transpired in the present case and the co-accused person, namely, Prem Kumar has been arrested, who is cousin brother of 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 petitioners under the Bihar Prohibition and Excise Act.

6. 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.

7. 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.

8. Considering the aforesaid facts, petitioner has clean antecedent, 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.-V, Gaya in connection with Sherghati P.S.Case No.811 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/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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