

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.81653 of 2024

Arising Out of PS. Case No.-413 Year-2021 Thana- BRAHMPUR District- Buxar

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Baljeet Kumar Singh @ Baljeet Singh Son of Shatrudhan Singh Resident of
Mohalla- B-4 Khas Mahal Calony, Near Central School Kurpadiya Gark, P.S.-
Sandey Bazar, Distt.- Bokaro, Jharkhand

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Dr.Kamal Deo Sharma, Advocate

For the Opposite Party/s : Mr.Yogendra Kumar Singh, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 03-12-2024 Heard Mr.Dr.Kamal Deo Sharma, learned counsel

for the petitioner and Mr.Yogendra Kumar Singh, learned

Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Brahampur (Chakki) P.S.Case No.413 of
2021,FIR dated 03.08.2021 registered for the offences
punishable under Section 30(a) of Bihar Prohibition and Excise
Amendment Act, 2018.

3. Recovery is of 149 liters of foreign liquor.

4. Learned counsel for the petitioner submits that the
petitioner has falsely been implicated in the present case. Name
of the petitioner has been transpired during investigation on the
basis of the disclosure made by co-accused person, namely, Om



Prakash Yadav and it appears from the FIR itself that nothing has been recovered from conscious possession of the petitioner rather the recovery has been made from the vehicle in question and except the disclosure made by the co-accused person, no other cogent material has come during investigation against the petitioner to suggest the involvement of the petitioner in the present occurrence and petitioner has been made accused in the present case merely on the ground that the petitioner is owner of the vehicle in question. 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. Further submits that the petitioner is owner of the vehicle in question and recovery has been made from the vehicle of the petitioner and apart from that, the petitioner carries two more cases of similar nature other than the present one but fairly submits that out of two cases, the petitioner is on bail in one case, and rest one case is pending for consideration,



as mentioned in para-3 of the anticipatory bail petition.

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, 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 Judge, Excise Court No.-2, Buxar in connection with Brahampur (Chakki) P.S.Case No.413 of 2021, 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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