

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.84315 of 2023

Arising Out of PS. Case No.-621 Year-2023 Thana- BEGUSARAI MUFFASIL District-
Begusarai

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Rajiv Thakur @ Rajiv Kumar Son Of Gonar Thakur R/O Village- Bari Sankh,
Ward No.9, P.S.- Muffasil, District- Begusarai

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Anshu Dhar Sharma, Advocate
Mrs. Namita Sharma @ Namita Kumari, Advocate
For the Opposite Party/s : Mr. Dr. Mrityunjaya Kr. Gautam, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 18-01-2024 Heard Mr. Anshu Dhar Sharma, learned counsel
for the petitioner and Mr. Dr. Mrityunjaya Kr. Gautam, learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Muffasil P.S. Case No. 621 of 2023, F.I.R.
dated 23.10.2023 for the offences punishable under Sections
30(a) of Bihar Prohibition and Excise (Amend.) Act, 2018.

3. Recovery is of 402.05 liters of illicit 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. He further



submits that the alleged recovery has been made from the place of one Raushan Kumar and the petitioner has no concern at all with the place of occurrence or with the other accused persons. He further submits that no cogent material has come during investigation to suggest the involvement of the petitioner in the said case. 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 criminal antecedent other than the present one but fairly submits on the basis of paragraph 3 of the bail petition that the petitioner is on bail in the pending case.

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, 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 Judge Excise- 1st , Begusarai in connection with Muffasil P.S. Case No. 621 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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