

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1932 of 2024

Arising Out of PS. Case No.-627 Year-2023 Thana- LAKHISARAI District- Lakhisarai

Ashok Kewat Son of Late Mahadew Kewat, Resident of village - Gangta,
Police Station - Amahara, District - Lakhisarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shaukat Alam, Advocate

For the Opposite Party/s : Mr. Pramod Kumar Pandey, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 31-01-2024 Heard Mr. Shaukat Alam, the learned counsel for
the petitioner and Mr. Pramod Kumar Pandey, the learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Lakhisarai Amhara O.P. PS Case No. 627 of
2023, FIR dated 18.08.2023, registered for the offence
punishable under Section 30(a) of the Bihar Prohibition and
Excise Act.

3. Recovery is of 50 litres of country made liquor.

4. Learned counsel for the petitioner submits that
petitioner has clean antecedent and he has falsely been
implicated in the present case on the basis of disclosure made by
the local chowkidar and according to the FIR and seizure list, it
appears that nothing has been recovered from the house of the



petitioner rather the recovery has been made from a bush near the pond and the petitioner has no concern at all with the allegedly recovered liquor. 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.

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 the fact that nothing has been recovered from conscious possession of the petitioner 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 anticipatory 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 Additional District & Sessions Judge-IV-cum-Special Excise Court-I, Lakhisarai, where the case is pending in connection with **Lakhisarai Amhara O.P. PS Case No. 627 of 2023**, subject to the conditions as laid down under Section 438(2) of the Cr.P.C. and also the 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 absence on two consecutive dates without sufficient reason, his 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 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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