

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.86590 of 2023

Arising Out of PS. Case No.-14 Year-2021 Thana- GOVERNMENT OFFICIAL COMP.
District- Madhepura

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Ajit Kumar Son of Amod Kumar Yadav, R/o- Village- Durga Tola (Durgi Tola), Murho, PS- Madhepura (Bharrahi OP), District- Madhepura.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Surya Yadav, Advocate

For the Opposite Party/s : Mr. Umeshanand Pandit, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 09-04-2024 Heard Mr. Surya Yadav, the learned counsel for the

petitioner and Mr. Umeshanand Pandit, the learned Additional

Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in

connection with ABP No. 417 of 2021, arising out of

Madhepura Excise Case No. 14 of 2021-22, FIR dated

14.04.2021, registered for the offence punishable under Section

30(a) of the Bihar Prohibition and Excise Act.

3. Recovery is of 6.80 litres of cough syrup.

4. Learned counsel for the petitioner submits that

petitioner has clean antecedent and he has falsely been

implicated in the present case and the allegation levelled in the

FIR is false and fabricated and the petitioner has not committed



any offence as alleged in the FIR. He further submits that according to the FIR noting has been recovered from the conscious possession of the petitioner and the recovery has been made from the courtyard of the house of the petitioner and petitioner has no concern at all with the alleged recovery of the cough syrup. 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 circumstances



and the fact that petitioner has clean antecedent and nothing has been recovered from his conscious possession, let the petitioner, above-named, in the event of his arrest or surrender before the trial Court 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 Sessions Judge-VII-Cum-Special Judge (Excise)-II, Madhepura, where the case is pending in connection with **Madhepura Excise Case No. 14 of 2021-22**, 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 trial Court and shall remain physically present as directed by the trial Court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the trial Court.

(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 trial Court 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 trial Court 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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