

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2139 of 2024

Arising Out of PS. Case No.-334 Year-2023 Thana- MOTIPUR District- Muzaffarpur

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Varun Kumar Rai @ Varun Kumar SON OF RAM HULAS RAY RESIDENT
OF VILLAGE- HARPUR, WARD NO. 2, P.S. MOTIPUR, DISTRICT-
MUZAFFARPUR

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Manoj Kumar, Advocate

For the Opposite Party/s : Mr. Chandra Bhushan Prasad, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 31-01-2024 Heard Mr. Manoj Kumar, learned counsel for the

petitioner and Mr. Chandra Bhushan Prasad, learned Additional

Public Prosecutor for the State.

2. The petitioner is apprehending his arrest
connection with Motipur P.S. Case No. 334 of 2023, F.I.R. dated
16.10.2023 registered for the offences punishable under Section
30(a) of the Bihar Prohibition & Excise Act.

3. Recovery is of 600.48 liters of *foreign* liquor.

4. Learned counsel for the petitioner submits that
the petitioner has clean antecedent and he has falsely been
implicated in the present case merely on the ground that the
petitioner is the owner of the vehicle in question. He further
submits that from perusal of the F.I.R. it was mentioned in the



F.I.R. that the Chawkidar has identified one person namely Vinod Rai who escaped from the vehicle in question and the petitioner was not present at the place of occurrence and his name has been transpired on the ground that the petitioner is the owner of the vehicle in question. Therefore, the recovery cannot be attributed to 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 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, nothing has



been recovered from conscious possession of the petitioner and the petitioner having clean antecedent and his name has been transpired on the basis that he is the owner of the vehicle in question, 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-II, Muzaffarpur in connection with Motipur PS. Case No. 334 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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