

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2779 of 2024

Arising Out of PS. Case No.-158 Year-2023 Thana- HARLAKHI District- Madhubani

Dasai Sahani Son Of Late Saryug Sahani R/O Village- Umgaon, P.S.-
Harlakhi, Dist.- Madhubani

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ravi Prakash, Advocate

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

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 19-03-2024 Heard Mr.Ravi Prakash, learned counsel for the

petitioner and Mr.Anish Chandra, learned Additional Public

Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Harlakhi P.S.Case No.158 of 2023,FIR dated 12.06.2023 registered for the offences punishable under Sections 272,273 of IPC and Section 30(a) of Bihar Prohibition and Excise Act, 2022.

3. Recovery is of 135 liters of illicit liquor.

4. Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the present case. The allegation as alleged in the FIR is false and fabricated and the petitioner has not committed any offence as alleged in the FIR and it appears from the FIR that nothing has been recovered



from conscious possession of the petitioner rather the recovery has been made near the Pond which was situated in backside of the house of the petitioner and the petitioner has no concern at all with the alleged recovery of illicit liquor and he has been made accused in the present case merely on the basis of suspicion. 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 recovery has been made behind the house of the petitioner and apart from that the petitioner carries one more case of similar nature other than the present one but fairly submits that the petitioner is on bail in the said case, 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, nothing has been recovered from conscious possession of the petitioner, 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 Addl. Sessions Judge-II-cum-Special Judge, (Excise Act), Madhubani in connection with Harlakhi P.S.Case No.158 of 2023, 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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