

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2081 of 2024

Arising Out of PS. Case No.-347 Year-2023 Thana- BIBHUTIPUR District- Samastipur

Uma Kant Ray Late Triveni Ray, R/O Vill-Khadiyahi, Ward No.1,
P.S.Bibhutipur, Dist- Samastipur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr. Vinod Shanker Modi, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 31-01-2024 Heard Mr. Mritunjay Kumar, learned counsel for
the petitioner and Mr. Vinod Shanker Modi, learned Additional
Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Bibhutipur P.S. Case No. 347 of 2023, F.I.R. dated 04.09.2023 for the offences punishable under Sections 30(a) of the Bihar Prohibition and Excise Act.

3. Recovery is of 160.560 litres of foreign liquor from a car.

4. Learned counsel for the petitioner submits that the petitioner is innocent and he has falsely been implicated in the present case merely on the ground that the vehicle was standing in front of the house of the petitioner. He further submits that the allegation as alleged in the F.I.R is false and fabricated. He



further submits that it appears from the F.I.R that nothing has been recovered from the conscious possession of the petitioner rather the recovery has been made from a car. He further submits that 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, 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 Special Excise Court-I, Samastipur in connection with Bibhutipur P.S. Case No. 347 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 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)

ajay/-

U		T	
---	--	---	--

