

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.86596 of 2023

Arising Out of PS. Case No.-194 Year-2023 Thana- GWALPARA District- Madhepura

Pankaj Kumar Mehta @ Pankaj Mehta Son of Bodho Mehta, Resident of
Village - Rajpur Sarsandi, Ward No. 5, P.S. - Gwalpara, District - Madhepura.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Uday Chand Prasad, Advocate

For the Opposite Party/s : Mr. Md. Aslam Ansari, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 09-04-2024 Heard Mr. Uday Chand Prasad, the learned counsel
for the petitioner and Mr. Md. Aslam Ansari, the learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Gwalpara PS Case No. 194 of 2023, FIR dated
28.09.2023, registered for the offences punishable under Section
21 (C) of NDPS Act and under Section 30(a) of the Bihar
Prohibition and Excise Act.

3. Recovery is of 19.51 litres of codeine cough syrup.

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 the disclosure
made by the local chowkidar and he has identified the fleeing
person, who has thrown the 195 pieces of codeine cough syrup,



as the petitioner. He further submits that except the aforesaid no other cogent material has come during investigation that suggests the involvement of the petitioner in the present occurrence and without any FSL report and without following the procedures of NDPS Act, the present FIR has been instituted against 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 and circumstances



and the fact that nothing has been recovered from conscious possession of the petitioner, the petitioner has clean antecedent and the name of the petitioner has been transpired on the basis of the disclosure made by local chowkidar, 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-5th-Cum-Special Judge Excise Act, 1st, Madhepura, where the case is pending in connection with **Gwalpara PS Case No. 194 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 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)

Shahnawaz/-

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

