

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.2087 of 2024**

Arising Out of PS. Case No.-584 Year-2023 Thana- Excise P.S. District- Vaishali

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Santosh Singh @ Santosh Kumar Singh Son Of Rameshwer Prasad Singh  
Resident Of Maksudpura, Zauhri Bazar, P.S. - Hajipur Town, District -  
Vaishali

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Vikramadit, Advocate

For the Opposite Party/s : Mr. Nitya Nand Tiwary, APP

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**CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA**  
**ORAL ORDER**

2      31-01-2024                      Heard Mr. Vikramadit, learned counsel for the  
  
petitioner and Mr. Nitya Nand Tiwary, learned Additional Public  
  
Prosecutor for the State.

2. The petitioner is apprehending his arrest  
connection with Hajipur Excise P.S. Case No. 584 of 2023, F.I.R.  
dated 26.10.2023 registered for the offences punishable under  
Sections 30(A), 32(2)(3), 41(i)(ii), 47 of the Bihar Prohibition &  
Excise Act, 2018.

3. Recovery is of 210.500 liters of illicit liquor.

4. Learned counsel for the petitioner submits that  
the petitioner is innocent and he has falsely been implicated in  
the present case. He further submits that from perusal of the  
F.I.R. as well as seizure list that the recovery has been made from  
the house of co-accused person namely Sushant Kumar and from



the vehicle in question which was standing in the campus of Syushant Kumar. He further submits that on the basis of disclosure made by co-accused person, the name of the petitioner has been falsely implicated in the present case and the petitioner has no concern at all with the alleged recovery of illicit liquor. 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. He further submits that the petitioner carries one more case other than the present one but fairly submits on the basis of paragraph-3 of the petition that the petitioner is on bail in the pending matter.

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) PLJ.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 name of the petitioner has been transpired on the basis of disclosure made by co-accused person, 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 Prohibition & Excise, Court (Second)-cum-Addl. District & Sessions Judge, Hajipur, Vaishali in connection with Hajipur Excise PS. Case No. 584 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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