

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.303 of 2024

Arising Out of PS. Case No.-222 Year-2022 Thana- CHACKMEHSI District- Samastipur

Md. Yaseen @ Md. Yasin S/O Late Abdul Raseed Village/Mohalla- Morwa,
Gopal Tola, Ps. Musari Gharari, Distt. Samastipur. Petitioner/s

Versus

The State of Bihar Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Kedar Jha, Advocate

For the Opposite Party/s : Ms. Asha Devi, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 19-03-2024 Heard Mr. Kedar Jha, learned counsel for the

petitioner and Ms. Asha Devi, learned Additional Public

Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Chakmehasi P.S. Case No. 222 of 2022, F.I.R
dated 20.12.2022 registered for the offences punishable under
Section 30(a) of Bihar Prohibition and Excise Act.

3. Recovery is of 2.475 liters of foreign liquor.

4. Learned counsel for the petitioner submits that
the petitioner has clean antecedent and has falsely been
implicated in the present case merely on the ground that the
petitioner is the owner of the scooty in question from which the
recovery has been made. He further submits that in fact, the
petitioner has sold the scooty in question to one Sonu Kumar in
the year 2018 and petitioner has no concern at all with the
alleged scooty or the other accused persons and he has been
made accused on the ground that he is the owner of the scooty.



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 has clean antecedent and he has been made accused only because he is the owner of the scooty 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 the learned 1st Special Judge(Excise), Samastipur in connection with Chakmehasi P.S.



Case No. 222 of 2022, 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)

Vanisha/-

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

