

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4597 of 2024

Arising Out of PS. Case No.-464 Year-2022 Thana- MOHANIYA District- Kaimur (Bhabua)

Anil Kumar S/o Jagdish Singh Resident Of A 306, New Awas Vikash
Kashipur, Ward No.3, P.S-Kashipur, District- Udham Singh Nagar
(Uttarakhand).

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Praveen Kumar Agrawal, Advocate

For the Opposite Party/s : Mr. Sanjay Kumar, App

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 21-03-2024 Heard Mr. Praveen Kumar Agrawal, learned counsel
for the petitioner and Mr. Sanjay Kumar, learned Additional
Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Mohania P.S. Case No. 464 of 2022, FIR dated 23.08.2022, registered for the offences punishable under Section 30(a), 41(i) of Bihar Prohibition and Excise Act and Sections 420, 467, 468, 471/34 of IPC.

3. Recovery is of 3969 liters of illicit liquor.

4. Learned counsel for the petitioner submits that the petitioner has clean antecedent and he has falsely been implicated in the present case merely on the ground that the petitioner is owner of the Truck in question and it appears from



the FIR that nothing has been recovered from conscious possession of the petitioner rather the recovery has been made from the Truck in question and in fact the petitioner has already sold the Truck in question on 27.07.2000 to one Md. Ahmad, son of Fakir Mohammad, R/o Ward No.4, Chikishalay Kelalhera, P.S.-Bazpur, District-Udham Singh Nagar, Uttarakhand. Learned counsel for the petitioner submits that on the date of occurrence that the petitioner is not the owner of the Truck in question and he has been made accused in the present case merely on the ground that the owner of the truck was standing in the name of 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 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.

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 Spl. Judge Excise No.1-cum-A.D.J.-IV, Kaimur at Bhabhua in connection with Mohania P.S. Case No. 464 of 2022, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure and with other following conditions:-

(I) One of the bailors should be the father of the petitioner, namely, Jagdish Singh.

(II) 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.



(III) 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.

(IV) 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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