

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2140 of 2024

Arising Out of PS. Case No.-439 Year-2023 Thana- JAYNAGAR District- Madhubani

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Sujit Kumar Paswan @ Sujit Paswan Son of Ramhirday Paswan @
Ramprasad Paswan Resident Of Village- Dullipatti Ward No.- No.-07, Police
Station- Jaynagar, District- Madhubani

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Bhavesh Sah, Advocate
For the Opposite Party/s : Mr. Sanjay Kumar Tiwary, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 31-01-2024 Heard Mr. Bhavesh Sah, learned counsel for the

petitioner and Mr. Sanjay Kumar Tiwary, learned Additional

Public Prosecutor for the State.

2. The petitioner is apprehending his arrest
connection with Jaynagar P.S. Case No. 439 of 2023, F.I.R. dated
28.10.2023 registered for the offences punishable under Sections
272, 273, 414, 34 of the Indian Penal Code and Section 30(a) of
the Bihar Prohibition & Excise Act.

3. Recovery is of 405 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 basis of disclosure
made by local Chaukidar. He further submits that from perusal of



the F.I.R. as well as seizure list that nothing incriminating article has been recovered from the possession of the petitioner rather the recovery has been made from the motorcycle in question and the bush at the place of occurrence. He further submits that the petitioner has no concern at all with the alleged recovery of illicit liquor and the petitioner is neither the owner nor the driver of the seized vehicle. 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.

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 having clean antecedents, 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 2nd Additional Sessions Judge cum Special Judge, Excise Act, Madhubani in connection with Jaynagar PS. Case No. 439 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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