

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2151 of 2024

Arising Out of PS. Case No.-178 Year-2023 Thana- DERNI BAZAR District- Saran

Ranjit Ray @ Ranjeet Kumar S/O Vijay Rai VILLAGE- DERNI, POST-SULTIHAR, PS. DERNI, DIST. SARAN.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Digvijay Narayan Singh, Advocate

For the Opposite Party/s : Mr. Arun Kumar, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 31-01-2024 Heard Mr. Digvijay Narayan Singh, learned counsel
for the petitioner and Mr. Arun Kumar, learned Additional
Public Prosecutor for the State.

2. The petitioner is apprehending his arrest connection with Derni P.S. Case No. 178 of 2023, F.I.R. dated 24.09.2023 registered for the offences punishable under Section 30(a) of the Bihar Prohibition & Excise Act, 2016.

3. Recovery is of 20.985 liters of *foreign* liquor.

4. Learned counsel for the petitioner submits that the petitioner has clean antecedent 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 nothing has been recovered from the possession or the house of the petitioner rather recovery has been made near the straw shed which was



situated near the house of the petitioner and the petitioner has no concern at all with the alleged recovery of illicit liquor and he has been falsely implicated merely on the ground that the co-villagers have disclosed the name of the petitioner. 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 antecedent, 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 Special Court Excise-cum-Additional District Judge-IIInd, Saran at Chapra in connection with Derni PS. Case No. 178 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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