

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1839 of 2024

Arising Out of PS. Case No.-376 Year-2018 Thana- GOVERNMENT OFFICIAL COMP.
District- Samastipur

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Jitendra Paswan S/O- Lalo Paswan @ Lal Bahadur Paswan R/O Vill-
Taleghara, Ps- Khanpur, Dist- Samastipur.

... .. Petitioner/s

Versus

The State Of Bihar Patna

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Dilip Kumar Roy, Advocate
For the Opposite Party/s : Mr. Suresh Prasad Singh, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 31-01-2024 Heard Mr. Dilip Kumar Roy, learned counsel for

the petitioner and Mr. Suresh Prasad Singh, learned Additional

Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Excise Case No. 376 of 2018, F.I.R dated
27.12.2018 registered for the offences punishable under Section
30(a) of Bihar Prohibition and Excise Act.

3. Recovery is of 15 liters of country made wine.

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 it appears from the
F.I.R as well as seizure list that nothing has been recovered from
the conscious possession of the petitioner rather the recovery



has been made from the bank of Taleghara river. He further submits that the petitioner has no concern at all with the alleged recovery of the illicit liquor and he has been made accused in this case only on the basis of suspicion. 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 two criminal antecedents other than the present one but fairly submits on the basis of paragraph 3 of the bail petition that the petitioner is on bail in both the cases.

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 that 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 the learned Special Judge, Excise-II, Samastipur in connection with Excise Case No. 376 of 2018, 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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