

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2142 of 2024

Arising Out of PS. Case No.-218 Year-2023 Thana- TARAIYA District- Saran

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Akhilesh Sahani @ Akhilesh Kumar Sahani S/o Upinder Sahani @ Upendra Sahani R/o Village-Hasanpur Baniya, P.S.-Taraiya, District-Saran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ranjay Kumar Singh, Advocate

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

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 31-01-2024 Heard Mr. Ranjay Kumar Singh, learned counsel

for the petitioner and Mr. Ashok Kumar Singh, learned

Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Taraiya P.S. Case No.218 of 2023, F.I.R. dated 07.07.2023 for the offences punishable under Sections 30(a), 32(1)(2), 38 and 41(1)(2) of the Bihar Prohibition and Excise Act.

3. Recovery is of 218.340 litres of English wine.

4. Learned counsel for the petitioner submits that the petitioner has clean antecedent and he has falsely been implicated in the present case on the basis of the disclosure made by the co-accused person. He further submits that the allegation as alleged in the F.I.R is false and fabricated. He



further submits that except the disclosure made by the co-accused person there is nothing to suggest the involvement of the petitioner in the present case. He further submits that similarly situated other co-accused person, namely, Sikander Kumar Sahani and Ritesh Kumar have already been granted anticipatory bail by this Hon'ble Court today in Cr. Misc. No. 2069 of 2024. He further submits that 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 has 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 the learned 3rd Exclusive Special Excise Judge, Saran at Chhapra in connection with Taraiya P.S. Case No. 218 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 tamper 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 bond 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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