

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2064 of 2024

Arising Out of PS. Case No.-300 Year-2023 Thana- DAUDPUR District- Saran

Chandan Kumar S/o Sanjiv Ray @ Sanjiv Kumar Ray Resident of Village
Maujampur, P.S. Awtar Nagar, District Saran at Chapra

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rabindra Tiwary, Advocate

For the Opposite Party/s : Mr. Akbar Ali, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 31-01-2024 Heard Mr. Rabindra Tiwary, learned counsel for the

petitioner and Mr. Akbar Ali, learned Additional Public

Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Daudpur P.S. Case No. 300 of 2023, F.I.R.
dated 04.09.2023 for the offences punishable under Sections
30(a) of the Bihar Prohibition and Excise Act.

3. Recovery is of 268.575 litres of English wine from
a truck.

4. Learned counsel for the petitioner submits that the
petitioner has clean antecedent and has falsely been implicated
in the present case. He further submits that the allegation as
alleged in the F.I.R is false and fabricated. He further submits
that it appears from the F.I.R that nothing has been recovered



from the conscious possession of the petitioner. He further submits that petitioner is neither the owner nor the driver of the said truck. He further submits that the petitioner has no concern at all with the alleged recovery of the illicit liquor. 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, 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 1st Exclusive Special Excise Court, Saran at Chhapra in connection with Daudpur P.S. Case No. 300 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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