

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.73761 of 2024

Arising Out of PS. Case No.-276 Year-2024 Thana- Excise P.S. District- Aurangabad

Sudhir Kumar S/o- Arvind Singh Village- Chouram, P.S.- Daudnagar,
District- Aurangabad

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Anil Kumar Sinha, Advocate

For the Opposite Party/s : Ms. Shaheen Begum, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 29-01-2025 Heard Mr. Anil Kumar Sinha, the learned counsel

for the petitioner and Ms. Shaheen Begum, the learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Daudnagar Excise PS Case No. 276 of 2024,
FIR dated 29.06.2024, registered for the offences punishable
under Sections 30(a) and 32(3) of the Bihar Prohibition and
Excise Act.

3. Recovery is of 30 litres of illegal country made
liquor.

4. Learned counsel for the petitioner submits that
petitioner has clean antecedent and he has falsely been
implicated in the present case. He further submits that from
perusal of the FIR it appears that nothing has been recovered
from the conscious possession of the petitioner, rather the



recovery has been made from the vehicle in question and one Sonu Kumar, who is the friend of the petitioner, has been apprehended along with the motorcycle in question. He further submits that although petitioner is not named in the FIR, but he has been made accused in the present case merely on the ground that petitioner is owner of the vehicle (motorcycle) in question. There is non-compliance with mandatory procedure prescribed for recovery under Section 100 of Cr.P.C. / Section 103 of BNSS, 2023. No case, whatsoever, would be made out against the petitioner under the Bihar Prohibition and Excise Act.

5. The learned Additional Public Prosecutor for the State on the other hand 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 and circumstances and mainly the facts that petitioner has clean antecedent, nothing has been recovered from conscious possession of the petitioner and he has been made accused in the present case merely on the ground that petitioner is the owner of the motorcycle in question, let the petitioner, above-named, in the event of his arrest or surrender before the learned trial Court within a period of thirty days from the date of receipt of the order, be released on anticipatory 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, Aurangabad, where the case is pending in connection with **Daudnagar Excise PS Case No. 276 of 2024**, subject to the conditions as laid down under Section 438(2) of the Cr.P.C. / Section 482(2) of the BNSS, 2023 and also the following conditions:-

(i). Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the learned trial Court and shall remain physically present as directed by the learned trial Court and on his absence on two consecutive dates without sufficient reason, his bail bond shall



be cancelled by the learned trial Court.

(ii). 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.

(iii). And further condition that the learned trial Court 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 learned trial Court shall take steps 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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