

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.69162 of 2024

Arising Out of PS. Case No.-76 Year-2018 Thana- INDUSTRIAL District- Bhagalpur

Ram Kumar S/O Tejnarayan Verma R/O Ward No.26, Bhartiya Nagar, P.S.
And Distt.- Saharsa

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sanjeev Verma, Advocate

For the State : Mr. Md. Iftekhar Mahmood, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 22-01-2025 Heard Mr. Sanjeev Verma , learned counsel for the

petitioner and Mr. Md. Iftekhar Mahmood, learned Additional

Public Prosecutor for the State.

2. The petitioner is apprehending his arrest
connection with Industrial Area P.S. Case No. 76 of 2018, F.I.R.
dated 31.05.2018, registered for the offences punishable under
Section 30, 30(a) of the Bihar Prohibition & Excise Amendment
Act, 2022.

3. Recovery is of 54 litres 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. In fact, petitioner is not named in
the FIR, and the name of the petitioner has transpired during
investigation on the basis of that the petitioner is the owner of



the vehicle in question. He further submits that F.I.R. was instituted in the year 2018 and police had reached the first owner of the vehicle on 05.06.2020 (after two years) and reached at the house of the petitioner in January 2024. 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./ 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 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 that nothing has



been recovered from conscious possession of the petitioner and the petitioner has clean antecedent and name of the petitioner has transpired on the basis that he was the owner of the vehicle in question, 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 Additional Sessions Judge-IX, Bhagalpur in connection with Industrial PS. Case No. 76 of 2018, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure/Section 482(2) of BNSS, 2023 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 bonds 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 have 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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