

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.72598 of 2024

Arising Out of PS. Case No.-130 Year-2024 Thana- Daudnagar Excise District- Aurangabad

Rohit Kumar Son of Sanjay Chaudhary Resident of Village and P.O- Koilwan,
P.S.- Haspura, District-Aurangabad

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Amit Anand, Advocate

For the Opposite Party/s : Mr. Khurshid Anwar, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 29-01-2025 Heard Mr. Amit Anand, learned counsel for the

petitioner and Mr. Khurshid Anwar, learned Additional Public

Prosecutor for the State.

2. The petitioner is apprehending his arrest connection
with ABP No. 1732 of 2024 arising out of Daudnagar Excise
P.S. Case No. 130 of 2024, F.I.R. dated 08.04.2024 registered
for the offences punishable under Sections 30(a), 32(3) of Bihar
Prohibition and Excise (Amendment) Act, 2018.

3. Recovery is of 40 liters of *Deshi Mahua* liquor.

4. Learned counsel for the petitioner submits that the
petitioner has clean antecedent and he has falsely been
implicated in the present case merely on the ground that the
recovery has been made from the motorcycle in question and the
petitioner is the owner of the vehicle in question. He further



submits that petitioner has given the motorcycle in question to one Kamlesh Chaudhary for some urgent purpose and he was apprehended along with the illicit liquor. He further submits that the petitioner has no role in the present occurrence and apart from that nothing has been recovered from the conscious possession of the petitioner. 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 and the fact that the petitioner having clean antecedent and nothing has been recovered from conscious possession of the petitioner and he has been made accused merely on the ground that the petitioner is 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 Special Judge, Excise-II, Aurangabad in connection with ABP No. 1732 of 2024 arising out of Daudnagar Excise PS. Case No. 130 of 2024, 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 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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