

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.79008 of 2024

Arising Out of PS. Case No.-59 Year-2023 Thana- KOCHAS District- Rohtas

Md. Quddus Khan @ Abdul Quddus Khan son of Ahad Khan R/Vill
-Nasriganj Ward No 12 PO and PS-Nasriganj Dist-Rohtas

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rakesh Kumar Mishra, Advocate
For the Opposite Party/s : Mr. Nityanand, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 17-04-2025 Heard Mr. Rakesh Kumar Mishra, learned counsel

for the petitioner and Mr. Nityanand, learned Additional Public

Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Kochas P.S. Case No. 59 of 2023, F.I.R dated 12.02.2023 registered for the offences punishable under Section 30(a) of Bihar Prohibition and Excise Act.

3. Recovery is of 371.520 liters of foreign liquor.

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 it appears from the F.I.R and seizure list that nothing has been recovered from the conscious possession of the petitioner rather the recovery has been made from the vehicle in question and only

on the basis that the petitioner is the owner of the said vehicle, the petitioner has been made accused in the present case. He further submits that in fact, the petitioner has already sold the vehicle in question to one Banke Bihari Gupta on 31.12.2022 and the present F.I.R. has been instituted on 12.02.2023 and the petitioner has no consideration with the alleged recovery of liquor or the vehicle in question.

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 the petitioner is having clean antecedent and he has been made accused merely on the ground that he is the owner of the said vehicle, in

fact, the petitioner had already sold his vehicle to one Bankey Bihari Gupta on 31.12.2022, 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 Exclusive Special Excise Court No.- 2-cum-Additional District and Sessions Judge, Rohtas, Sasaram in connection with Kochas P.S. Case No. 59 of 2023, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure / Section 482(2) of the Bhartiya Nagarik Suraksha Sanhita and with other following conditions:-

i. 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.

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 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.)

Jyoti Kumari/-

U		T	
---	--	---	--