

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.85531 of 2024

Arising Out of PS. Case No.-224 Year-2021 Thana- GOVERNMENT OFFICIAL COMP.
District- Vaishali

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Motilal Rai Son of Late Kalyu Rai Resident of Village - Tersiya Ward No. 12,
P.S. - Ganga Bridge, District - Vaishali

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Bhola Prasad, Advocate
For the Opposite Party/s : Mr. Akshay Lal Pandit, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 17-01-2025 Heard Mr. Bhola Prasad, learned counsel for the

petitioner and Mr. Akshay Lal Pandit, learned Additional Public

Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with C-2-A Case No. 224 of 2021 registered for the
offences punishable under Sections 30(a), 30(c), 2(1), 41(1),
41(2) of Bihar Prohibition and Excise (Amended) Act, 2018.

3. Recovery is of 810 liters of country made liquor.

4. Learned counsel for the petitioner submits that
the petitioner has clean antecedent and he has falsely been
implicated in the present case. He further submits that the
allegation as alleged in the complaint case is false and fabricated
and he has not committed any offence as alleged in the



complaint case. He further submits that the name of the petitioner has been transpired on the basis of the disclosure made by the local chowkidar and except the aforesaid, no other cogent material has come during investigation which suggest the involvement of the petitioner in the present occurrence. He further submits that the complaint case has been instituted in the year 2021 and the police has approached the petitioner in October, 2024. He further submits that the similarly situated co-accused, namely, Vijendra Rai @ Vijendra Kumar @ Virendra Rai has been granted anticipatory bail by this Court vide order dated 01.10.2024 passed in Cr. Misc. No. 64627 of 2024. There is non-compliance with mandatory procedure prescribed for recovery under Section 100 of Cr.P.C / Section 103 of Bhartiya Nagarik Suraksha Sanhita. No case, whatsoever, would be made out against the petitioner under the Bihar Prohibition and Excise Act.

5. 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 has clean antecedent, name of the petitioner has been transpired on the basis of the disclosure made by the local chowkidar and the similarly situated co-accused person has been granted anticipatory bail by this Court, 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 Prohibition and Excise Act Court No. II, Vaishali at Hajipur in connection with C-2-A Case No. 224 of 2021, 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)

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