

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.85906 of 2024

Arising Out of PS. Case No.-128 Year-2024 Thana- CHAKAI District- Jamui

Manoj Mahto S/O Ram Krishna Mahto @ Ram Kishan Mahto, R/o village -
Tarabad, P.S - Fatehpur Jamtara, District - Jamtara, (Jharkhand).

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Pramod Kumar, Advocate

For the Opposite Party/s : Mr. Binod Kumar, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 17-01-2025 Heard Mr. Pramod Kumar, the learned counsel for
the petitioner and Mr. Binod Kumar, the learned Additional
Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Chakai PS Case No. 128 of 2024, FIR dated
24.07.2024, registered for the offences punishable under
Sections 274 and 275 of the Bhartiya Nyay Sanhita, 2023 and
under Section 30(a) of the Bihar Prohibition and Excise Act.

3. Recovery is of 1196.625 litres of foreign 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 as per
allegation in the FIR, altogether 1196.625 litres of foreign liquor
has been recovered from the truck bearing registration no. NL



01K 9272. He further submits that from the perusal of the FIR, it is evident that recovery has been made from the truck in question and petitioner has been made accused in the present case merely on the ground that petitioner is the owner of the truck 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, he has been made accused in the present case merely on the ground that petitioner is the owner of the truck in question and nothing has been recovered from the conscious possession of the petitioner, let the petitioner, above-named, in the event of his arrest or surrender before the learned trial Court, within a period of four weeks 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 Exclusive Excise Court-I, Jamui, where the case is pending in connection with **Chakai PS Case No. 128 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 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.

(iv). One of the bailors should be the father of the petitioner namely, Ram Kishan Mahto @ Ram Krishana Mahto S/o Nakul Mahto, R/o village- Tarabad, P.S.- Fatehpur Jamtara, Distt.- Jamtara, Jharkhand, who has sworn the affidavit in the present case.

(Rajesh Kumar Verma, J)

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