

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.38309 of 2024**

Arising Out of PS. Case No.-173 Year-2024 Thana- HISUWA District- Nawada

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Gautam Kumar @ Mayank @ Mayank Uday Singh Son Of Uday Singh  
Village- Hadas, Ps- Hisua, Dist- Nawada

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Mrigendra Kumar, Advocate  
For the State : Md. Matloob Rab, APP

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**CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA**  
**ORAL ORDER**

2      26-06-2024                      Heard Mr. Mrigendra Kumar, learned counsel for  
  
the petitioner and Md. Matloob Rab, learned Additional Public  
  
Prosecutor for the State.

2. The petitioner is apprehending his arrest in  
connection with Hisua P.S. Case No. 173 of 2024, F.I.R dated  
18.03.2024 registered for the offences punishable under Section  
30(a) of Bihar Prohibition and Excise Act.

3. Recovery is of 207.405 liters of foreign liquor.

4. Learned counsel for the petitioner submits that  
the petitioner is innocent and he has falsely been implicated in  
the present case. He further submits that from a bare perusal of  
the FIR it appears that nothing has been recovered from the  
house or from the conscious possession of the petitioner rather  
recovery has been made from the car and house of the co-



accused person, namely, Surendra Manjhi. He further submits that merely on the basis of the suspicion the petitioner has been made accused in the present case. There is non-compliance with mandatory procedure prescribed for recovery under Section 100 of Cr.P.C. 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 submits that the pre-arrest bail would not be maintainable. He further submits that petitioner carries three criminal antecedents other than the present one but fairly submits on the basis of the paragraph-3 of the bail application that the petitioner is on bail in all the pending matters.

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, nothing has been recovered from conscious possession of the petitioner, 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.1, Nawada in connection with Hisua P.S. Case No. 173 of 2024, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure 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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