

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3519 of 2025

Arising Out of PS. Case No.-318 Year-2022 Thana- JAYNAGAR District- Madhubani

Raj Kumar Sah S/o Late Abodhi Sah @ Abodhi Shaha, R/o Village- Kalkipur,
P.S.- Kaluahi, District- Madhubani.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Jitendra Kumar Bharti, Advocate

For the Opposite Party/s : Mr. Rana Randhir Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 12-02-2025 Heard Mr. Jitendra Kumar Bharti, the learned
counsel for the petitioner and Mr. Rana Randhir Singh, the
learned Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Jayanagar PS Case No. 318 of 2022, FIR dated
13.09.2022, registered for the offences punishable under
Sections 272, 273, 414 and 34 of the Indian Penal Code and
under Section 30(a) of the Bihar Prohibition and Excise Act.

3. Recovery is of 78 litres of Nepali 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 according
to the FIR and seizure list, nothing has been recovered from the
conscious possession of the petitioner, rather the recovery has



been made from the scooty in question and petitioner is previous owner of the scooty 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, nothing has been recovered from conscious possession of the



petitioner and petitioner has been made accused in the present case merely on the ground that petitioner is previous owner of the scooty in question, let the petitioner, above-named, in the event of his arrest or surrender before the learned trial Court within a period of thirty days 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 Additional Session Judge-II-cum-Special Judge, Excise Act, Madhubani, where the case is pending in connection with **Jayanagar PS Case No. 318 of 2022**, 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 steps 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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