

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5691 of 2025

Arising Out of PS. Case No.-141 Year-2022 Thana- AAYAR District- Bhojpur

Lakhan Paswan Son of Munna Paswan, Resident of Village - Echari, P.S. -
Ayar, District - Bhojpur.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Munna Prasad Singh, Advocate
For the Opposite Party/s : Mr. Bishweshwar Ram, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 15-02-2025 Heard Mr. Munna Prasad Singh, the learned
counsel for the petitioner and Mr. Bishweshwar Ram, the
learned Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Ayar PS Case No. 141 of 2022, FIR dated
12.12.2022, registered for the offence punishable under Section
30(a) of the Bihar Prohibition and Excise Act.

3. Recovery is of 35 litres of country made mahuwa
liquor.

4. Learned counsel for the petitioner submits that
petitioner has clean antecedent and he has falsely been
implicated in the present case and the allegation levelled in the
FIR is false and fabricated and the petitioner is not named in the
FIR and name of petitioner transpired on the basis of disclosure
made by apprehended co-accused person namely, Manu Mushar.



He further submits that according to the FIR and seizure list, nothing has been recovered from the conscious possession of the petitioner, rather recovery has been made from the possession of co-accused person. 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 name of petitioner transpired on the basis of disclosure made by apprehended co-accused person, 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 Exclusive Special Excise Court No. 1, Bhojpur, Ara, where the case is pending in connection with **Ayar PS Case No. 141 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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