

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5662 of 2025

Arising Out of PS. Case No.-642 Year-2022 Thana- DEHRI TOWN District- Rohtas

Mithilesh Kumar Singh @ Mithlesh Kumar Singh S/O Suryadev Singh
Resident of Village- New Diliya, P.S- Dehri Town, Distt.- Rohtas (Sasaram),
State- Bihar.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

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

For the Opposite Party/s : Ms. Pronoti Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 15-02-2025 Heard Mr. Saroj Kumar, the learned counsel for the

petitioner and Ms. Pronoti Singh, the learned Additional Public

Prosecutor for the State.

2. The petitioner is apprehending his arrest in

connection with Dehri Town PS Case No. 642 of 2022, FIR

dated 23.08.2022, registered for the offences punishable under

Sections 30(a) and 37 of the Bihar Prohibition and Excise Act.

3. Recovery is of 710 mL of illegal liquor.

4. Learned counsel for the petitioner submits that

petitioner has clean antecedent and he has falsely been

implicated in the present case merely on the ground that

petitioner is owner of the motorcycle in question. 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 pocket of the co-accused person namely, Pankaj Kumar Singh and from the dicky of the motorcycle in question. He further submits that the co-accused Pankaj Kumar Singh happens to be the own brother of the petitioner and he took away the motorcycle of petitioner and he got apprehended along with the liquor and petitioner has no role at all with the alleged occurrence. 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 he has been made accused in the present case merely on the ground that he is the owner of the motorcycle 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 Exclusive Special Judge, Excise Court No. 1, Rohtas (Sasaram), where the case is pending in connection with **Dehri Town PS Case No. 642 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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