

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1793 of 2025

Arising Out of PS. Case No.-250 Year-2024 Thana- BELA District- Sitamarhi

Rajesh Kumar @ Rajeev Sah Son of Rajdev Shah Resident of Village -
Sirsiya, P.S. - Bela, District - Sitamarhi

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Vagisha Pragya Vacaknavi, Advocate

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

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 17-01-2025 Heard Mr. Vagisha Pragya Vacaknavi, learned
counsel for the petitioner and Mr. Shailendra Kumar, learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Bela P.S. Case No. 250 of 2024, F.I.R dated
20.11.2024 registered for the offences punishable under Section
30(a) of Bihar Prohibition and Excise Act.

3. Recovery is of 540 liters of illicit 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
conscious possession of the petitioner rather recovery have been
made from the vehicle in question. He further submits that



petitioner is neither the owner nor the driver of the vehicle in question and he has been made accused in the present case merely on the ground that petitioner has been identified by the local chaukidar and except the aforesaid no other cogent material has come during the investigation to suggest the involvement of the petitioner in the present occurrence and apart from that he has been made accused due to his previous criminal antecedents of the similar nature.

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 submitted that the pre-arrest bail would not be maintainable. He further submits that the petitioner carries two more cases other than the present one but fairly submits on the basis of the paragraph no.3 of the bail petition 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 that nothing has been recovered from conscious possession of the petitioner and he has been made accused in this case on the basis of the disclosure made by the local chaukidar, 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 Judge-1, Sitamarhi in connection with Bela P.S. Case No. 250 of 2024, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure/ Section 482(2) of B.N.S.S., 2023 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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