

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5069 of 2025

Arising Out of PS. Case No.-208 Year-2020 Thana- SASARAM MUFFSIL District- Rohtas

Sumeru Mahto @ Sumer Singh S/o Bhura Mahto R/o Vill- Dahiyar, P.S.-
Sasaram (Muffasil), Distt.- Rohtas

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ashutosh Tripathy, Advocate

For the Opposite Party/s : Ms.Pushpa Sinha, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 19-02-2025 Heard Mr.Ashutosh Tripathy, learned counsel for the
petitioner and Ms.Pushpa Sinha, learned Additional Public
Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Sasaram (M) P.S.Case No.208 of 2020, FIR
dated 09.07.2020 registered for the offences punishable under
Section 30(a) of Bihar Prohibition and Excise Amendment Act,
2018.

3. Recovery is of 30 liters of country made liquor.

4. Learned counsel for the petitioner submits that the
petitioner has falsely been implicated in the present case on the
basis of suspicion. It appears from the FIR that the police
personnel have received secret information and on the basis of
secret information, illicit liquor was recovered from the Bush
and name of the petitioner has been transpired during



investigation on the basis of suspicion. From a bare perusal of the FIR as well as the seizure list that nothing has been recovered from conscious possession of the petitioner rather the recovery has been made from the Bush and the petitioner has no concern at all with the alleged recovery of illicit liquor. 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. Learned A.P.P. for the State has vehemently opposed the prayer for 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. Further submits that the petitioner carries three more cases of similar nature other than the present one but fairly submits that the petitioner is on bail in all the cases, as mentioned in para-3 of the bail petition.

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) PLJR 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, 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 learned Exclusive Special Excise Court No.2-cum-District and Additional Sessions Judge, Rohtas at Sasaram in connection with Sasaram (M) P.S.Case No.208 of 2020, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure/ Section 482(2) of BNSS, 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/her absence on two consecutive dates without sufficient reason, his/her 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/her 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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