

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5035 of 2025

Arising Out of PS. Case No.-259 Year-2024 Thana- RAMKRISHNANAGAR District- Patna

Md. Ashraf Raja S/o Md. Afajal Hussain R/o Mohalla- Lal Miyan Ki Dargah,
Naharpar, P.S.- Phulwari Sharif, District- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shambhu Sn Singh, Advocate

For the Opposite Party/s : Mrs. Meena Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 19-02-2025 Heard Mr. Shambhu Sn Singh, learned counsel for
the petitioner and Mrs. Meena Singh, learned Additional Public
Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Ramkrishna Nagar P.S. Case No. 259 of 2024, F.I.R dated 01.04.2024 registered for the offences punishable under Sections 30(a), 32(2), 32(3) and 41 of Bihar Prohibition and Excise Act.

3. Recovery is of 600 liters of wine.

4. Learned counsel for the petitioner submits that the petitioner has clean antecedent and he has falsely been implicated in the present case. He further submits that it appears from the F.I.R as well as seizure list that nothing has been recovered from the conscious possession of the petitioner rather



the recovery has been made from the vehicle in question. He further submits that the petitioner has purchased this vehicle in question on 18.05.2022 and thereafter, the petitioner has sold the said vehicle to one Md. Nayer Azad on 21.06.2022 but the said Md. Nayer Azad has not transferred the name from the DTO Office. There is non-compliance with mandatory procedure prescribed for recovery under Section 100 of Cr.P.C / Section 103 of Bhartiya Nagarik Suraksha Sanhita. No case, whatsoever, would be made out against the petitioner under the Bihar Prohibition and Excise Act.

5. 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.

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 petitioner has clean antecedent, nothing has been recovered from conscious possession of the petitioner and the vehicle in question has been sold by the petitioner to one Md. Nayear Azad long back i.e. on 21.06.2022 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 Special Judge, Excise-2nd, Patna in connection with Ramkrishna Nagar P.S. Case No. 259 of 2024, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure / Section 482(2) of the Bhartiya Nagarik Suraksha Sanhita 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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