

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3974 of 2025

Arising Out of PS. Case No.-254 Year-2024 Thana- RAHIKA District- Madhubani

Sonu Kumar @ Sonu Mahto @ Sonu Kr. Mahto Son of Indradeo Mahto @
Inder Dev Mahto Resident of Village -Kharauwa Police Station-Rahika Dist
-Madhubani

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Bhavesh Kumar Sah, Advocate

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

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 12-02-2025 Heard Mr. Bhavesh Kumar Sah, learned counsel for

the petitioner and Mr. Sanjay Kumar Singh, learned Additional

Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Rahika P.S. Case No. 254 of 2024, F.I.R dated
15.11.2024 registered for the offences punishable under Section
30(a)/41(1) of Bihar Prohibition and Excise Act.

3. Recovery is of 180 liters of Nepali liquor.

4. Learned counsel for the petitioner submits that
the petitioner is innocent and he has falsely been implicated in
the present case on the basis of the disclosure made by the
apprehended co-accused person. 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 recovery have been made from the vehicle and house of the co-accused person and the petitioner has no concern at all the with alleged recovery or the co-accused person. There is non-compliance with mandatory procedure prescribed for recovery under Section 100 of Cr.P.C./Section 103 of the B.N.S.S., 2023. No case, whatsoever, would be made out against the petitioner under the Bihar Prohibition and Excise Act.

5. 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. He further submits that the petitioner carries two more cases other than the present one but fairly submits on the basis of the para-3 of the bail petition that the petitioner is on bail in 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, nothing has been recovered from conscious possession of the petitioner and he has been made accused on the basis of the disclosure made by the co-accused person, 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 2nd Additional Sessions Judge-cum-Special Judge Excise Act, Madhubani in connection with Rahika P.S. Case No. 254 of 2024, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure/Section 482(2) of the 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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