

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.5043 of 2025**

Arising Out of PS. Case No.-474 Year-2024 Thana- CHAPRA MUFFASIL District- Saran

Dharmendra Mahto S/o- Baleshwar Mahto @ Balkeshwar Mahto Village -  
Jamuna Mathiya @ Yamuna Mathiya , P. S - Chhapra Muffasil, District -  
Saran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

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

For the Opposite Party/s : Mrs. Anita Kumari, APP

**CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA**  
**ORAL ORDER**

2      19-02-2025                      Heard Mr. Hemant Kumar, learned counsel for the  
  
petitioner and Mrs. Anita Kumari, learned Additional Public  
  
Prosecutor for the State.

2. The petitioner is apprehending his arrest in  
connection with Chhapra Muffasil P.S. Case No. 474 of 2024,  
F.I.R dated 06.08.2024 registered for the offences punishable  
under Section 30(a) of Bihar Prohibition and Excise  
Amendment Act, 2022.

3. Recovery is of 50 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 merely on the basis of information furnished by  
the local villagers. 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. 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. She further submits that it appears from the F.I.R that on the basis of secret information, the present F.I.R has been instituted against the petitioner and apart from that the petitioner carries two criminal antecedents other than the present one but fairly submits on the basis of paragraph 3 of the bail petition that the petitioner is on bail in both the cases.

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, 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 1<sup>st</sup> Exclusive Special Excise Court, Saran at Chapra in connection with Chhapra Muffasil P.S. Case No. 474 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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