

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5104 of 2025

Arising Out of PS. Case No.-602 Year-2024 Thana- BAKHTIYARPUR District- Patna

Devendra Ray S/o Late Moti Rai R/o vill - Hakikatpur, P.S. - Bakhtiyarpur,
Distt.- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mrs. Madhubala Verma, Advocate

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

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 19-02-2025 Learned counsel for the petitioner is permitted to make necessary correction in the prayer portion of the bail petition.

2. Heard Mrs. Madhubala Verma, learned counsel for the petitioner and Mr. Pawan Kumar Chaurasia, learned Additional Public Prosecutor for the State.

3. The petitioner is apprehending his arrest in connection with Bakhtiyarpur P.S. Case No. 602 of 2024, F.I.R dated 18.10.2024 registered for the offences punishable under Section 30(a) of Bihar Prohibition and Excise Act.

4. Recovery is of 13 liters of country made liquor.

5. 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 the secret information. 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 have been made from cow shed which is an open place and the petitioner has no concern at all with the alleged recovery of the illicit liquor or the cow shed. There is non-compliance with mandatory procedure prescribed for recovery under Section 100 of Cr.P.C./ Section 103 of B.N.S.S., 2023. No case, whatsoever, would be made out against the petitioner under the Bihar Prohibition and Excise Act.

6. 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 one more case other than the present one of similar nature but fairly submits on the basis of the paragraph no.3 of the bail petition that the petitioner is on bail in the pending matter.

7. 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.

8. 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/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Special Judge (Excise) Act, Barh, Patna in connection with Bakhtiyarpur P.S. Case No. 602 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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