

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5686 of 2025

Arising Out of PS. Case No.-322 Year-2024 Thana- MANJHAGARH District- Gopalganj

Haresh Sahani S/o- Shivnath Sahani, Resident of village- Kerwaniya Tola,
PS- Manjhagarh, District- Gopalganj.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Dharmveer, Advocate

For the Opposite Party/s : Mr. Md. Nazir Ansari, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 15-02-2025 Heard Mr. Dharmveer, the learned counsel for the
petitioner and Mr. Md. Nazir Ansari, the learned Additional
Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Manjhagarh PS Case No. 322 of 2024, FIR
dated 31.10.2024, registered for the offence punishable under
Section 30(a) of the Bihar Prohibition and Excise Act.

3. Recovery is of 10 litres of country made liquor.

4. Learned counsel for the petitioner submits that
petitioner has falsely been implicated in the present case on the
basis of disclosure made by local people as well as local
chowkidar. He further submits that according to the FIR and
seizure list, nothing has been recovered from the conscious
possession of the petitioner, rather recovery has been made from
a bamboo *kothi*. He further submits that petitioner has no



concern at all with the alleged recovery and he has been made accused merely on the basis of suspicion and due to his previous criminal antecedents. 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. The 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 petitioner fled away from the place of occurrence and apart from that, petitioner carries two criminal antecedents other than the present one, however, he fairly submits that 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 and circumstances and mainly the facts that nothing has been recovered from conscious possession of the petitioner and he has been made accused merely on the basis of suspicion and his previous criminal antecedents, let the petitioner, above-named, in the event of his arrest or surrender before the learned trial Court within a period of thirty days from the date of receipt of the order, be released on anticipatory 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 Additional District and Sessions Judge-XIII-cum-Special Excise Court No. 1, Gopalganj, where the case is pending in connection with **Manjhagarh PS Case No. 322 of 2024**, subject to the conditions as laid down under Section 438(2) of the Cr.P.C. / Section 482(2) of the BNSS, 2023 and also the following conditions:-

(i). Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the learned trial Court and shall remain physically present as directed by the learned trial Court and on his absence on two consecutive dates without sufficient reason, his bail bond shall



be cancelled by the learned trial Court.

(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 learned trial Court 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 learned trial Court shall take steps 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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