

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.5653 of 2025**

Arising Out of PS. Case No.-158 Year-2024 Thana- KUNDWACHAINPUR District- East  
Champaran

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Timan Mahato @ Nagendra Mahato @ Nagendr Mahto son of Ramayodhya  
@ Jodhi Mahto R/o village- Hasanpur PS- Kundwa Chainpur District  
-Motihari East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Md. Danish Quamar, Advocate

For the Opposite Party/s : Mr. Rana Randhir Singh, APP

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

2      15-02-2025                      Heard Md. Danish Quamar, learned counsel for the  
  
petitioner and Mr. Rana Randhir Singh, learned Additional  
  
Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in  
connection with Kundwa Chainpur P.S. Case No. 158 of 2024,  
F.I.R dated 19.10.2024 registered for the offences punishable  
under Section 30(a) of Bihar Prohibition and Excise Act.

3. Recovery is of 78.06 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. He further submits that the allegation as alleged in  
the F.I.R is false and fabricated and the petitioner has not  
committed any offence as alleged in the FIR. He further  
submits that it appears from the F.I.R that nothing has been



recovered from the conscious possession of the petitioner rather the recovery has been made from the cow shed and outside the house of the petitioner and he has been made accused on the basis of the suspicion. He further submits that the petitioner is not the absolute owner of the house in question. 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.

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 one more case of the similar nature other than the present one 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.

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 is not the absolute owner of the house in question, 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 Exclusive Special Excise Court No. 3, East Champaran at Motihari in connection with Kundwa Chainpur P.S. Case No. 158 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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