

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5675 of 2025

Arising Out of PS. Case No.-174 Year-2024 Thana- LAKHAURA District- East Champaran

Harendra Sahani @ Harendra Sahni S/o Ramgovind Sahani, R/o Village-
Lakhaura Purbari Tola, P.S.- Lakhaura, Dist.- East Champaran.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner : Mr. Priyesh Kumar, Advocate
For the Opposite Party : Ms. Shaheen Begum, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 15-02-2025 Heard Mr. Priyesh Kumar, the learned counsel for
the petitioner and Ms. Shaheen Begum, the learned Additional
Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Lakhaura PS Case No. 174 of 2024, FIR dated
03.11.2024, registered for the offences punishable under
Sections 30(a), 32 and 41(1) of the Bihar Prohibition and Excise
Act.

3. Recovery is of 12 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 chowkidar and local people.
He further submits that as per allegation in the FIR, petitioner
fled away from the place of occurrence and twelve litres of
country made liquor was recovered from the paddy field, which



is situated behind the house of the petitioner. He further submits that from persual of FIR and seizure list, it appears that nothing has been recovered from the conscious possession of the petitioner, rather recovery has been made from the paddy field, which is an open place and petitioner has no concern at all either with the alleged recovery or with the place of occurrence. 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 carries one criminal antecedent of similar nature.

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 name of petitioner transpired on the basis of disclosure made by local chowkidar, 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 Special Judge, Excise Court No. 1, East Champaran, Motihari, where the case is pending in connection with **Lakhaura PS Case No. 174 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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