

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5248 of 2025

Arising Out of PS. Case No.-790 Year-2024 Thana- SIWAN MUFFASIL District- Siwan

Krishna Sah S/O Shyamlal Sah Resident Of Village - Pakri Bangali, P.S-
Mahadewa O.P, Dist- Siwan

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ajay Kumar Tiwary, Advocate

For the Opposite Party/s : Ms.Gulnar Begum, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

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

2. The petitioner is apprehending his arrest in
connection with Siwan Muffasil P.S.Case No.790 of 2024,FIR
dated 07.12.2024 registered for the offences punishable under
Section 30(a) of Bihar Prohibition and Excise Act, 2016,
Amended 2022.

3. Recovery is of 3.6 liters of illicit liquor.

4. Learned counsel for the petitioner submits that the
petitioner has clean antecedent and he has falsely been
implicated in the present case merely on the basis of suspicion.
Further submits that it appears from the FIR as well as seizure
list that nothing has been recovered from conscious possession



or the house of the petitioner rather the recovery has been made in front of the house of the petitioner and petitioner has been made accused in the present case merely on the basis of suspicion and except the aforesaid, no other material has come during investigation against the petitioner to suggest the involvement of the petitioner in the present occurrence and local Chaukidar has also disclosed the name of the petitioner and stated that the petitioner has fled away from 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 petitioners under the Bihar Prohibition and Excise Act.

5. Learned A.P.P. for the State has vehemently opposed the prayer for 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.

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) PLJR 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, petitioner has clean antecedent, nothing has been recovered from conscious possession or the house of the petitioner and name of the petitioner has been transpired during investigation on the basis of the disclosure made by local Chaukidar, 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 learned Exclusive Special Judge, Excise Court No.-II, Siwan in connection with Siwan Muffasil P.S.Case No.790 of 2024, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure/ Section 482(2) of BNSS, 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/her absence on two consecutive dates without sufficient



reason, his/her 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/her 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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