

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5231 of 2025

Arising Out of PS. Case No.-261 Year-2020 Thana- GARDANIBAG District- Patna

Pappu Chouhan @ Pappu Kumar Son of Saryug Chouhan R/o Mohalla-
Govindpur, P.S-Phulwari Sharif, District-Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sudhanshu Shekhar, Advocate

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

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 15-02-2025 Heard Mr. Sudhanshu Shekhar, learned counsel for
the petitioner and Mr. Sanjay Kumar, learned Additional Public
Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Gardanibagh P.S. Case No. 261 of 2020, F.I.R
dated 16.05.2020 registered for the offences punishable under
Sections 30(a)/34 of Bihar Prohibition and Excise (Amendment)
Act, 2018.

3. Recovery is of 16 liters of country made 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 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



has been made from the motorcycle in question. He further submits that as per the allegation in the F.I.R, co-accused persons along with this petitioner fled away from the place of occurrence. He further submits that the name of the petitioner has been transpired on the basis of the fact that the petitioner is the owner of the motorcycle from where alleged recovery has been made. He further submits that the allegation as alleged in the F.I.R. is false and fabricated and the petitioner has no concern at all with the alleged recovery of the illicit liquor. There is non-compliance with mandatory procedure prescribed for recovery under Section 100 of Cr.P.C / Section 103 of Bhartiya Nagarik Suraksha Sanhita. No case, whatsoever, would be made out against the petitioner under the Bihar Prohibition and Excise Act.

5. Learned Additional Public Prosecutor 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 two criminal antecedents other than the present one but fairly submits on the basis of paragraph 3 of the bail petition that the petitioner is on bail in both 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 that nothing has been recovered from conscious possession of the petitioner and name of the petitioner has been transpired on the ground that he is the owner of the motorcycle 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 Special Judge Excise Act-1, Patna in connection with Gardanibagh P.S. Case No. 261 of 2020, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure / Section 482(2) of the Bhartiya Nagarik Suraksha Sanhita 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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