

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5038 of 2025

Arising Out of PS. Case No.-455 Year-2024 Thana- RAJAPAKAR District- Vaishali

Nitish Kumar S/o Bhuneshwar Rai R/vill- Bilandpur, P.S.- Mahua, Distt. -
Vaishali

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Subodh Prasad, Advocate

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

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 19-02-2025 Heard Mr. Subodh Prasad, 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 Raja Pakar (Baranti O.P.) P.S. Case No. 455 of
2024, F.I.R dated 24.11.2024 registered for the offences
punishable under Section 30(a) of Bihar Prohibition and Excise
Act.

3. Recovery is of 50 liters of country made liquor.

4. Learned counsel for the petitioner submits that
the petitioner has clean antecedent 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. 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 vehicle (scooty) in question. He further submits that the name of the petitioner has been transpired on the basis of the fact that he is the owner of the vehicle in question. In fact, petitioner has given the scooty in question to one Mahesh Kumar who is co-villager for some urgent work and he was apprehended along with 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.

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 the petitioner has clean antecedent, nothing has been recovered from conscious possession of the petitioner and name of the petitioner has been transpired on the fact that he is owner of the vehicle 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 Prohibition and Excise Court (Second)-cum-District and Additional Sessions Judge, Hajipur in connection with Raja Pakar (Baranti O.P.) P.S. Case No. 455 of 2024, 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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