

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5224 of 2025

Arising Out of PS. Case No.-433 Year-2024 Thana- BAHERA District- Darbhanga

Sukhsagar paswan @ Uge paswan S/o Late Mahendra Paswan R/o Vill.-
Watganj, P.S- Bahera, Dist.- Darbhanga

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mrs. Madhumala Kumari, Advocate

For the Opposite Party/s : Md. Matloob Rab, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 15-02-2025 Heard Mrs. Madhumala Kumari, learned counsel for
the petitioner and Md. Matloob Rab, learned Additional Public
Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Bahera P.S. Case No. 433 of 2024, F.I.R dated
16.11.2024 registered for the offences punishable under Section
30(a) of Bihar Prohibition and Excise Act.

3. Recovery is of 216 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 on the basis of the disclosure made by the
apprehended co-accused, namely, Arjun Paswan. She 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 near the Kamla river. She further submits that the petitioner has no concern at all with the alleged recovery of the illicit liquor and he has been made accused on the basis of the disclosure made by the co-accused person. 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 co-accused person has disclosed the name of the petitioner and apart from that the petitioner carries two criminal antecedents of the similar nature other than the present one.

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, 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-II Excise Act, Darbhanga in connection with Bahera P.S. Case No. 433 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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