

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5634 of 2025

Arising Out of PS. Case No.-234 Year-2024 Thana- CHERIYA BARIYARPUR District-
Begusarai

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Manjesh Kumar Mahto S/O- Ram Pravesh Mahto Village- Thikarahi,
Khanjhanpur, Ward 03, P.S- Cheriya Bariyarpur, Dist- Begusarai

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Vinod Kumar Seth, Advocate
For the Opposite Party/s : Mr. Harendra Prasad, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 15-02-2025 Heard Mr. Vinod Kumar Seth, learned counsel for

the petitioner and Mr. Harendra Prasad, learned Additional

Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Cheriya Bariyarpur P.S. Case No. 234 of 2024,
F.I.R dated 31.12.2024 registered for the offences punishable
under Section 30(a) of Bihar Prohibition and Excise Act.

3. Recovery is of 32.04 liters of foreign 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 and the
petitioner has not committed any offence as alleged in the FIR.



He further submits that it appears from the F.I.R that altogether 32.04 litres of foreign liquor was recovered from the house of the petitioner. He further submits that petitioner is not the absolute owner of the house in question. There is non-compliance with mandatory procedure prescribed for recovery under Section 100 of Cr.P.C./Section 103 of B.N.S.S., 2023. No case, whatsoever, would be made out against the petitioner under the Bihar Prohibition and Excise Act. He further submits that it appears from the FIR that nothing has been recovered from the conscious possession of the petitioner.

5. 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.

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, petitioner has clean antecedent, nothing has been recovered from conscious possession of the petitioner and petitioner is not the absolute owner of the house 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 Excise Judge-I, Begusarai in connection with Cheriya Bariyarpur P.S. Case No. 234 of 2024, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure/Section 482(2) of the B.N.S.S., 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 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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