

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8192 of 2025

Arising Out of PS. Case No.-194 Year-2023 Thana- KESARIA District- East Champaran

Pawan Kumar S/O Jitendra Mahto Resident of village - Sagar Churaman, P.S-
Kesariya, District- East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Ms. Rashmi Jha, Advocate

For the Opposite Party/s : Mr. Narsingh Tanti, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 21-02-2025 Heard Ms. Rashmi Jha, learned counsel for the

petitioner and Mr. Narsingh Tanti, learned Additional Public

Prosecutor for the State.

2. The petitioner is apprehending his arrest connection
with Kesariya P.S. Case No. 194 of 2023, F.I.R. dated
17.04.2023 registered for the offences punishable under
Sections 272, 273 of the Indian Penal Code and Sections 30(a),
32, 34(a), 42(i) of the Bihar Prohibition & Excise Act.

3. Recovery is of 40 litres of country made liquor and
6000 litres of Mahua Mittha Ghol.

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 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 F.I.R. 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 recovery has been made near the Banparuwa Chawar. He further submits that the petitioner has no concern at all with the alleged recovery of illicit liquor and the name of the petitioner has been transpired on the disclosure made by local choukidar. He further submits that co-accused person namely Raj Kumar Sahani against whom the similar allegation has been granted the privilege of anticipatory bail by this Court vide order dated 07.08.2024 passed in Cr. Misc. No. 47966 of 2024. 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 petitioner under the Bihar Prohibition and Excise Act.

5. The 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 one more case of similar nature but fairly



submits on the basis of paragraph-3 of the bail petition that the petitioner is on bail in the pending matter.

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, 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 Excise Court No. 3, East Champaran, Motihari in connection with Kesariya PS. Case No. 194 of 2023, 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:-

1. 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.

2. 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.

3. 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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