

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.9534 of 2025

Arising Out of PS. Case No.-89 Year-2024 Thana- Nawalpur District- West Champaran

Radhey Shyam Mukhiya Son of Bigaadu Mukhiya Resident of village -
Piparahia, P.S.- Nawalpur, District - West Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sujeet Kumar, Advocate

For the Opposite Party/s : Ms.Veena Kumari Jaiswal, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 07-03-2025 Heard Mr.Sujeet Kumar, learned counsel for the

petitioner and Ms.Veena Kumari Jaiswal, learned Additional

Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Nawalpur P.S.Case No.89 of 2024, FIR dated 22.10.2024 registered for the offences punishable under Sections 274 and 275 of B.N.S. and Section 30(a) of Bihar Prohibition and Excise Act.

3. Recovery is of 09 liters of illegal liquor.

4. Learned counsel for the petitioner submits that the petitioner has clean antecedent and he has falsely been implicated in the present case on the basis of the disclosure made by the local Chaukidar as well as the local villagers. It appears from the FIR itself that nothing has been recovered



from conscious possession of the petitioner rather the recovery has been made from the motorcycle in question. Learned counsel for the petitioner submits that petitioner has no concern at all with the alleged recovery of illicit liquor or the motorcycle in question. 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. Learned A.P.P. for the State has vehemently opposed the prayer for 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) PLJR 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 has been made accused in the present case on the basis of the disclosure made by the local people and the local Chaukidar, 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 Judge Excise-II, Bettiah, West Champaran in connection with Nawalpur P.S.Case No.89 of 2024, 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:-

(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/her absence on two consecutive dates without sufficient reason, his/her 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/her 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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