

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.9060 of 2025

Arising Out of PS. Case No.-167 Year-2024 Thana- KANHAULI District- Sitamarhi

Naresh Ram Son of Shivaji Ram R/o Village - Madhubani (Tedhiya Madhubani), Ward No.- 07, P.S.- Sahiyara, District - Sitamarhi

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Deepak Kumar, Advocate
	:	Ms. Priya, Kumari, Advocate
For the State	:	Ms. Veena Kumari Jaiswal, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 06-03-2025 Heard Mr. Deepak 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 Kanhauli P.S. Case No. 167 of 2024, F.I.R dated 15.12.2024 registered for the offences punishable under Section 30(a) of Bihar Prohibition and Excise Act.

3. Recovery is of 18.900 liters of Nepali Gaurabh Saufi liquor.

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 FIR 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 FIR as well as seizure list that altogether



18.900 litres of illicit liquor was recovered from the motor cycle in question and one person was apprehended along with the illicit liquor who disclosed the name of the petitioner. He further submits that as per the allegation in the FIR, petitioner is owner of the vehicle in question. Learned counsel for the petitioner has annexed the owner book of the motorcycle in question which suggests that one Kasliya Devi w/o Jagdev Rai is owner of the vehicle 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.

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. He further submits that petitioner carries one more case other than the present one in similar nature of the offence but fairly submits on the basis of the paragraph no.3 of the bail application 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, nothing has been recovered from conscious possession of the petitioner, name of the petitioner has been transpired in this case on the basis of the disclosure made by the co-accused person on the ground that he is owner of the motor-cycle in question and petitioner has annexed the owner book of the motor cycle in question which suggests that the petitioner is not the owner of the motorcycle 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/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Exclusive Special Excise Court No.01, Sitamarhi in connection with Kanhauli P.S. Case No. 167 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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