

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.8725 of 2025**

Arising Out of PS. Case No.-224 Year-2024 Thana- JANTA BAZAR District- Saran

Teni Nut Son of Late Shankar Nut village - Senduar , P. S - Janta Bazar,  
District - Saran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

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

For the Opposite Party/s : Mr. Khurshid Anwar, APP

**CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA**  
**ORAL ORDER**

2      06-03-2025                      Heard Mr. Hemant Kumar, learned counsel for the  
petitioner and Mr. Khurshid Anwar, learned Additional Public  
Prosecutor for the State.

2. The petitioner is apprehending his arrest connection  
with Janta Bazar P.S. Case No.224 of 2024, F.I.R. dated  
28.10.2024 registered for the offences punishable under Section  
30(a) of the Bihar Prohibition and Excise Act.

3. Recovery is of 25 liters of countrymade liquor near  
house of the petitioner.

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 it appears from the F.I.R.  
and seizure list itself that nothing has been recovered from the  
conscious possession of the petitioner rather recovery has been  
made from the motorcycle in question and the name of the



petitioner has been transpired only on the ground that he is owner of the motorcycle and further submits that petitioner has fled away from the place of occurrence. He further submits that except the aforesaid, no other cogent material has come during investigation to suggest the involvement of the petitioner in the present occurrence. Therefore, the recovery cannot be attributed to the petitioner. 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 3<sup>rd</sup> Exclusive Special Excise Judge, Saran at Chapra in connection with Janta Bazar P.S. Case No.224 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 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)**

Prakash Narayan

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