

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.9145 of 2025

Arising Out of PS. Case No.-305 Year-2024 Thana- Excise P.S. District- Rohtas

Amar Paswan Son of Mukhan Ram Resident of Village- Saini Police Station
-Tilauthu District -Rohtas at Sasaram

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Ms. Riya Singh, Advocate

For the Opposite Party/s : Ms. Pronoti Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 07-03-2025 Heard Ms. Riya Singh, learned counsel for the
petitioner and Ms. Pronoti Singh, learned Additional Public
Prosecutor for the State.

2. The petitioner is apprehending his arrest connection
with Excise Case No.724 of 2024, FIR No.305 of 2024, F.I.R.
dated 12.09.2024 registered for the offences punishable under
Section 30(a) of the Bihar Prohibition and Excise Act.

3. Recovery is of 12.270 liters of countrymade foreign
liquor from a bag.

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 one
Nitish Kumar would misuse the motorcycle in the manner as
alleged who was also apprehended from the spot. He further
submits that it appears from the F.I.R. itself that nothing has



been recovered from the conscious possession of the petitioner and petitioner came to be implicated based on the fact that he is owner of the alleged seized motorcycle. Learned counsel for the petitioner further submits that petitioner was completely unaware that his neighbour would misuse the vehicle in the manner as alleged and who was also apprehended from the spot. 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.

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 petitioner has clean antecedent, nothing has been recovered from conscious possession of the petitioner and name of the petitioner has been transpired only on the ground that he is owner of the alleged seized 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/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Judge, Excise Court No.1, Rohtas at Sasaram in connection with FIR No.305 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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