

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.12945 of 2025**

Arising Out of PS. Case No.-92 Year-2020 Thana- RAJNAGAR District- Madhubani

Prakash Ranjan S/o Bhogeshwar Mishra R/o village- Kamalpur , P.s.- Raiyam
, District- Madhubani

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ravi Prakash, Advocate

For the Opposite Party/s : Mr. Gauri Shankar Gupta, APP

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

2 28-03-2025 Heard Mr. Ravi Prakash, learned counsel for the

petitioner and Mr. Gauri Shankar Gupta, learned Additional

Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Rajnagar P.S. Case No. 92 of 2020, F.I.R dated 30.03.2020 registered for the offences punishable under Sections 272 and 273 of the Indian Penal Code and Section 30(a) of Bihar Prohibition and Excise Act, 2016.

3. Recovery is of 750 ml of illicit liquor.

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 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



the recovery has been made from motorcycle in question. He further submits that the name of the petitioner has been transpired only on the ground that the petitioner is the owner of the vehicle in question. He further submits that in fact, the petitioner has sold the vehicle in question to one Md. Sane son of Rahaut Ali long back in the year 2017 itself. There is non-compliance with mandatory procedure prescribed for recovery under Section 100 of Cr.P.C / Section 103 of Bhartiya Nagarik Suraksha Sanhita. No case, whatsoever, would be made out against the petitioner under the Bihar Prohibition and Excise Act.

5. 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 nothing has been recovered from conscious possession of the petitioner, he has been made accused in this case only on the ground that he is owner of the vehicle in question and the petitioner has clean antecedent, 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 the learned Additional Sessions Judge-II-cum-Special Judge, Excise Act, Madhubani in connection with Rajnagar P.S. Case No. 92 of 2020, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure / Section 482(2) of the Bhartiya Nagarik Suraksha Sanhita 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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