

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.9100 of 2025

Arising Out of PS. Case No.-6 Year-2021 Thana- GOVERNMENT OFFICIAL COMP.
District- Begusarai

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Jitendra Rai @ Jitendra Roy @ Jitendra Prasad Jitu @ Jitendra Pd Jitu @
Dinanath Rai S/o Parmanand Rai @ Parmanand Roy R/o Village- Rachiyahiu,
Ward no 04, Nayatola, PS- Matihani, District- Begusarai

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sandip Kumar Gautam, Advocate
For the State : Mr. Pronoti Singh, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 06-03-2025 Heard Mr. Sandip Kumar Gautam, learned counsel

for the petitioner and Mr. Pronoti Singh, learned Additional

Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Excise P.S. Case No. 06 of 2021, F.I.R dated
13.08.2021 registered for the offences punishable under Section
30(a) of Bihar Prohibition and Excise Act.

3. Recovery is of 108.390 liters of foreign 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 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 itself that the recovery have been made from the co-accused person, namely, Nikki Kumar and petitioner has been made accused in this case merely on the ground that recovery have been made from the boring room of the petitioner which was situated in an agricultural field. 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.

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, the petitioner has clean antecedent, nothing has been recovered from conscious possession of the petitioner and he has been made accused merely on the ground that he is owner of the boring room 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 Judge-II, Begusarai in connection with Excise P.S. Case No. 06 of 2021, 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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