

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.8960 of 2025**

Arising Out of PS. Case No.-3 Year-2025 Thana- EXCISE MAHUWA District- Vaishali

Vikas Kumar Son of Motilal Sah Resident of Village - Agrail Khurd, Ward  
No.05, P.S. - Baligaon, District - Vaishali

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr. Manish Chandra Gandhi, Advocate

For the Opposite Party/s : Mr. Kanhiya Kishor, APP

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

2      06-03-2025                      Heard Mr. Manish Chandra Gandhi, learned counsel  
for the petitioner and Mr. Kanhiya Kishor, learned Additional  
Public Prosecutor for the State.

2. The petitioner is apprehending his arrest connection  
with Mahua Excise P.S. Case No.03 of 2025, F.I.R. dated  
08.01.2025 registered for the offences punishable under Section  
30(a) of the Bihar Prohibition and Excise Act, 2018.

3. Recovery is of 251.760 liters of liquor from the  
hut/house of the petitioner.

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. itself that nothing has been recovered from the  
conscious possession of the petitioner and the name of the  
petitioner has been made by the apprehended co-accused,



namely, Gopal Kumar. He further submits that no other cogent material has come during investigation to suggest the involvement of the petitioner in the present occurrence and has no concern with the co-accused person. 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 the name of the petitioner has been transpired on the disclosure made by the co-accused person, 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 Excise and Prohibition Court (Second)-cum-District and Sessions Judge, Hajipur, Vaishali in connection with Mahua Excise P.S. Case No.03 of 2025, 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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