

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13583 of 2025

Arising Out of PS. Case No.-361 Year-2019 Thana- GOVERNMENT OFFICIAL COMP.
District- Gopalganj

Nanhe Yadav @ Umesh Yadav Son of Aali Yadav Resident of Village-
Gausiya (Briti Tola), P.S. -Manjhagarh, District- Gopalganj.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Anirudh Kumar Verma, Advocate
	:	Mr. Vyas Kumar Mishra, Advocate
For the Opposite Party/s	:	Mr. Pawan Kumar Chaurasia, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 30-06-2025 Heard Anirudh Kumar Verma, learned counsel for
the petitioner and Mr. Pawan Kumar Chaurasia, learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Excise P.S.Case No.361 of 2019, FIR dated
16.10.2019 registered for the offences punishable under
Sections 30(a) of the Bihar Prohibition and Excise Amendment
Act, 2018.

3. Recovery is of 259.200 liters of illicit foreign
liquor.

4. Learned counsel for the petitioner submits that the
petitioner has falsely been implicated in the present case. From
a bare perusal of the FIR as well as the seizure list that nothing



has been recovered from conscious possession of the petitioner rather the recovery has been made from the hut of the petitioner. Learned counsel for the petitioner submits that although there is specific allegation that recovery has been made from the hut in question of the petitioner, but in fact nothing has been recovered from conscious possession of the petitioner and the petitioner has no concern at all with the alleged recovery of illicit liquor and he has been made accused in the present case due to his previous criminal antecedent. There is non-compliance with mandatory procedure prescribed for recovery under Section 100 of Cr.P.C. No case, whatsoever, would be made out against the petitioners under the Bihar Prohibition and Excise Act.

5. Learned A.P.P. for the State has vehemently opposed the prayer for 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 submits that recovery has been made from the hut of the petitioner. Apart from that, the petitioner has five criminal antecedents, but fairly submits that the petitioner is on bail in the pending matters.

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) PLJR 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, nothing has been recovered from conscious possession of the petitioner rather recovery has been made from the hut 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 Additional District and Sessions Judge-IV-Cum-Exclusive Special Excise Court No.II, Gopalganj, in connection with Excise P.S.Case No.361 of 2019, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure/under 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/her absence on two consecutive dates without sufficient reason, his/her 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/her 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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