

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14027 of 2025

Arising Out of PS. Case No.-826 Year-2024 Thana- Excise P.S. District- Siwan

Rahmat Ali S/o Abdul Gaffar Resident of Village - Dhanauti, P.S. - Siwan
Muffasil (Dhanauti O.P.) District - Siwan

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Ms. Rachna Rani, Advocate
		Mr. Bijay Prakash Singh, Advocate
For the Opposite Party/s	:	Mr. Bhanu Pratap Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 23-04-2025 Heard Ms. Rachna Rani, learned counsel for the
petitioner and Mr. Bhanu Pratap Singh, learned Additional
Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Siwan Excise P.S. Case No. 826 of 2024, F.I.R dated 22.12.2024 registered for the offences punishable under Sections 30(a) and 32(3) of Bihar Prohibition and Excise (Amendment) Act, 2022.

3. Recovery is of 288 liters of country made wine.

4. Learned counsel for the petitioner submits that the petitioner has clean antecedent and he has falsely been implicated in the present case. She further submits that the allegation as alleged in the F.I.R. is false and fabricated and the



petitioner has not committed any offences as alleged in the F.I.R. She further submits that it appears from the F.I.R that nothing has been recovered from the conscious possession of the petitioner rather the recovery has been made from two motorcycles and the petitioner is the bonafide owner of one of the motorcycle bearing Chassis No. MBLHAW406RHH09921. It appears that total 288 liters of illicit liquor has been jointly recovered from both the motorcycles in question. She further submits that in fact, the petitioner has given his motorcycle to one Arvind Kumar who is distance relative of him and he was apprehended along with the illicit liquor. 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 only on the ground that he is owner of one of the motorcycle 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 Exclusive Special, Excise Court No. II, Siwan in connection with Siwan Excise P.S. Case No. 826 of 2024, 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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