

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13667 of 2025

Arising Out of PS. Case No.-313 Year-2024 Thana- GHANSHYAMPUR District- Darbhanga

Gopal Mishra @ Gopal Kumar Mishra Son of Sri Ram Kumar Mishra R/o
village and P.O.- Pali, Ghanshyampur, P.S.- Ghanshyampur, District -
Darbhanga.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Abhimanyu Deo, Adv.
For the State	:	Mr. Manoj Kumar, APP.

CORAM: HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA
ORAL ORDER

3 12-05-2025 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. The petitioner apprehends his arrest in a case registered
for the offences punishable under Section 30(a) of the Bihar
Prohibition and Excise Act.

3. The recovery of total 4.125 litres of foreign liquor has
been shown from a bag which was recovered from the bushes
and a mobile phone was also recovered on the spot by the
raiding team.

4. Learned counsel for the petitioner submits that the
allegation levelled against the petitioner is totally incorrect. No
recovery was made from his physical and conscious possession.
His name has transpired in the present case on account of the



fact that the mobile phone, which was recovered on the spot, belongs to the present petitioner. It is further submitted that the petitioner had lost the said mobile phone long back and he has also given an online complain to the service provider to block his number, however, later on, he got a fresh sim on the same number and except this fact that the recovered mobile phone belonged to this petitioner, there is no other material available to connect him to the alleged offence. It is also submitted that the recovery of the seized bag was also made from an open place which is accessible to all and hence, no liability can be fixed upon the petitioner. It is further submitted that the process of search and seizure also amounts to violation of the mandatory provisions as there is no independent witness to the said seizure. The further submission is that the petitioner will neither abscond nor tamper with the evidence rather will cooperate in the investigation.

5. Learned APP for the State opposes the prayer for anticipatory bail on the ground that the petitioner has concealed his criminal antecedent to which learned counsel for the petitioner replies that the petitioner is on bail in the said case and the same has also been brought on record by way of a supplementary affidavit.



6. Considering the fact that there is no recovery from physical and conscious possession of the petitioner and also that there is no independent witness to the said seizure/search, I am inclined to grant the privilege of anticipatory bail to the petitioner. Let the petitioner, above named, in the event of his arrest or surrender before the Court below within four weeks, 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 Judge-II, Excise Act, Darbhanga in connection with Ghanshyampur P.S. Case No.313 of 2024, subject to the condition as laid down under Section 438 (2) of the Cr.P.C/ 482 (2) of the BNSS, 2023 and the further condition that the learned Court below would verify the criminal antecedent of the petitioner and in case 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, it is expected that the verification process would be done expeditiously without causing any delay.

(Soni Shrivastava, J)

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