

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11930 of 2025**

Arising Out of PS. Case No.-9 Year-2025 Thana- NOWKOTHI GARHPURA District-
Begusarai

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Mukesh Mahto @ Mukesh Kumar S/o Late Bhuvneshwar Mahto Resident of
Village- Samsa, Ward No 03, Police Station- Naokothi, District- Begusarai

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Satish Kumar Sinha, Advocate
For the Opposite Party/s : Ms.Sucheta Yadav, APP

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

3 09-05-2025 Heard Mr.Satish Kumar Sinha, learned counsel for

the petitioner and Ms.Sucheta Yadav, learned Additional

Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Naokothi P.S.Case No.09 of 2025,FIR dated
13.01.2025 registered for the offences punishable under
Sections 61(2) of B.N.S. and Sections 30(a),32,41 of Bihar
Prohibition and Excise Act, 2022 and Section 25(1-AA),
25(1-B)A, 26,35 of the Arms Act.

3. Recovery is of 794.65 liters of illegal foreign
liquor and two loaded country made pistol and one bindolia
having 27 round cartridges were recovered from possession of
co-accused person, namely, Vijay Rajak.



4. Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the present case on the basis of the disclosure made by the co-accused person, namely, Vijay Rajak and it appears from the FIR as well as the seizure list that the recovery has been made from possession of co-accused person, namely, Vijay Rajak and said co-accused person, namely, Vijay Rajak has disclosed the name of eight accused persons including the petitioner and co-accused persons, namely, Dinkar Mahto @ Dinkar Kumar and Niraj Kumar @ Niraj Mahto, whose names were also disclosed by the co-accused person, namely, Vijay Rajak, have been granted privilege of anticipatory bail by this Court vide order dated 16.04.2025 passed in Cr. Misc. No.15436 of 2025 and its analogous case respectively and the case of the petitioner is on similar footing. 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. 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. Further submits that the petitioner carries seven more cases other than the present one but fairly submits that the petitioner is on bail in all the cases, as mentioned in para-3 of the anticipatory bail petition.

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, name of the petitioner has been transpired on the basis of the disclosure made by the co-accused person, namely, Vijay Rajak and co-accused persons, namely, Dinkar Mahto @ Dinkar Kumar and Niraj Kumar @ Niraj Mahto, whose names were also disclosed by the co-accused person, namely, Vijay Rajak, have been granted privilege of anticipatory bail by this Court, 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 Judge-I, Begusarai in connection with Naokothi P.S.Case No.09 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/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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