

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13100 of 2025

Arising Out of PS. Case No.-10 Year-2025 Thana- Kumarbagh District- West Champaran

Bishun Mahto Son of Late Jatan Mahto Resident of village - Bishunpur
Raghunath, Ps- Kumarbagh, Dist- West Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sharad Kumar Verma, Advocate

For the Opposite Party/s : Mr. Rajendra Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 28-03-2025 Heard Mr. Sharad Kumar Verma, learned counsel for

the petitioner and Mr. Rajendra Singh, learned Additional Public

Prosecutor for the State.

2. The petitioner is apprehending his arrest connection
with Kumarbagh P.S. FIR No. 10 of 2025, F.I.R. dated
23.01.2025 registered for the offences punishable under Section
30(a) of the Bihar Prohibition & Excise Act, 2016.

3. Recovery is of 03 liters of illegal liquor.

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 the
allegation as alleged in the F.I.R. is false and fabricated and it
appears from the F.I.R. as well as seizure list that nothing has
been recovered from the conscious possession of the petitioner



rather recovery has been made from the house of the petitioner. He further submits that the petitioner is not the exclusive owner of the house in question and apart from that there is non-compliance of Section 100 of the Cr. P.C. Therefore, the recovery cannot be attributed to the petitioner. 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 and the fact that



the petitioner having clean antecedent and nothing has been recovered from conscious possession of the petitioner as well as the petitioner is not the exclusive owner of the house 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 Exclusive Special Judge, Excise-I, West Champaran at Bettiah in connection with Kumarbagh PS. F.I.R. No. 10 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:-

1. 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.

2. 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.

3. 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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