

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14862 of 2025

Arising Out of PS. Case No.-449 Year-2024 Thana- TEGHRHA District- Begusarai

Shambhu Sahani @ Shambhu Sahni Son of Masudan Sahani Resident of
Village - Binalpur Chakudho, Ward No.07, P.S. - Teghra, District - Begusarai

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sarvottam Kumar, Advocate

For the Opposite Party/s : Mr. Anil Kumar Singh No. 1, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

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

the petitioner and Mr. Anil Kumar Singh, learned Additional

Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Teghra Thana P.S. Case No. 449 of 2024, F.I.R
dated 25.12.2024 registered for the offences punishable under
Section 30(a) of Bihar Prohibition and Excise Act.

3. Recovery is of 15 liters of country made wine.

4. Learned counsel for the petitioner submits that
the petitioner is innocent and has falsely been implicated in the
present case. He further submits that it appears from the F.I.R
and the seizure list that nothing has been recovered from the
conscious possession of the petitioner rather the recovery has
been made from near the Chhoti Bandh in the bush and the

petitioner has no concerned with the alleged recovery of illicit liquor and he has been made accused on the basis of the secret information and except for the aforesaid, no other material has come during the investigation, which can suggest the involvement of the petitioner in the present occurrence. 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. 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 and that the petitioner is carrying two cases other than the present one, 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) 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 and the petitioner has clean antecedent and the name of the petitioners has been transpired on the basis of secret information, 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) each with two sureties of the like amount each to the satisfaction of the learned Exclusive Special Excise Court No. 01, Begusarai in connection with Excise Teghra Thana P.S. Case No. 449 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 petitioners. 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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