

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.17391 of 2025

Arising Out of PS. Case No.-445 Year-2021 Thana- RUPASPUR District- Patna

Vikash Kumar Son of Hari Dayal Prasad Resident of Mohalla-Lekha Nagar
Khagaul, P.S-Danapur, District-Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Swarna Roy, Advocate

For the Opposite Party/s : Mr. Kanhiya Kishor, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 21-04-2025 Heard Mr. Swarna Roy, learned counsel for the

petitioner and Mr. Kanhiya Kishor, learned Additional Public

Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Rupaspur P.S. Case No. 445 of 2021, F.I.R
dated 01.09.2021 registered for the offences punishable under
Section 30(a) of Bihar Prohibition and Excise Act.

3. Recovery is of 20 liters of country made liquor.

4. Learned counsel for the petitioner submits that
the petitioner has clean antecedent and he has falsely been
implicated in the present case. Altogether 20 liters of illicit
liquor has been recovered from the tempo in question. He
further submits that it appears from the F.I.R as well as seizure
list that nothing has been recovered from the conscious



possession of the petitioner and the petitioner has been made accused in the present case merely on the ground that he is owner of the vehicle in question and in fact, the petitioner has already sold the said vehicle to one Subodh Chaurasia on 25.07.2017 (Annexure-2). 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 the petitioner



has clean antecedent, nothing has been recovered from conscious possession of the petitioner and the petitioner has been made accused in the present case merely on the ground that he is owner of the vehicle in question and in fact, the petitioner has already sold the said vehicle long back in the year 2017 itself, 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 Special Excise Judge, Danapur in connection with Rupaspur P.S. Case No. 445 of 2021, 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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