

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.12946 of 2025

Arising Out of PS. Case No.-147 Year-2024 Thana- SRINAGAR District- West Champaran

Sipahi Yadav S/O Ramdhani Yadav R/O Village- Baijua, P.S- Srinagar, Distt.-
West Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Raki Alam, Advocate

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

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 28-03-2025 Heard Mr. Raki Alam, learned counsel for the

petitioner and Mr. Kanhiya Kishor, learned Additional Public

Prosecutor for the State.

2. The petitioner is apprehending his arrest connection
with Srinagar P.S. Case No. 147 of 2024, F.I.R. dated
25.10.2024 registered for the offences punishable under Section
30(a) of the Bihar Prohibition & Excise Act.

3. Recovery is of 180 liters of illegal liquor.

4. Learned counsel for the petitioner submits that the
petitioner is innocent and he has falsely been implicated in the
present case. 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 rather recovery has been
made from sugarcane field. He further submits that the name of



the petitioner has been transpired on the basis of disclosure made by local choukidar and similarly situated co-accused person namely Sadhu Yadav has been granted the privilege of anticipatory bail by this Court vide order dated 15.02.2025 passed in Cr. Misc. No. 5616 of 2025. 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. He further submits that the petitioner carries three more cases other than the present one but fairly submits on the basis of paragraph-3 of the bail petition that out of three cases, the petitioner is on bail in one case.

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 and the fact that nothing has been recovered from conscious possession of the petitioner as well as similarly situated co-accused person has been granted the 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 Judge, Excise-II, Bettiah, West Champaran in connection with Srinagar PS. Case No. 147 of 2024, 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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