

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.14000 of 2025**

Arising Out of PS. Case No.-9 Year-2025 Thana- Raghunathpur Excise District- Siwan

Sunil Yadav @ Sunil Kumar Yadav Son of Bishundeo Yadav Resident of  
Village - Pararihata Kherai Tola, P.S. - Andar, District - Siwan

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr.Ajay Kumar Tiwary, Advocate

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

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

2      24-04-2025                      Heard   Mr.Ajay Kumar Tiwary, learned counsel for  
the petitioner and Mr.Shyam Kumar Singh, learned Additional  
Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Raghunathpur Excise P.S.Case No.09 of 2025,FIR dated 12.01.2025 registered for the offences punishable under Sections 30(a) and 32(3) of Bihar Prohibition and Excise Act, 2016.

3. Recovery is of 621 liters of country made liquor and 8.640 liters of foreign liquor.

4. Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the present case. The allegation as alleged in the FIR is false and fabricated and the petitioner has not committed any offence as alleged in the FIR.



From a bare perusal of the FIR it appears that nothing has been recovered from conscious possession of the petitioner rather the recovery has been made from two Bolero vehicles in question and petitioner has been made accused in the present case merely on the basis of disclosure made by the co-accused person, namely, Radheshyam Kumar and apart from that, the petitioner is owner of the vehicle in question bearing Registration No. BR29F9339. 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 recovery has been made from the vehicle of the petitioner and apart from that, the petitioner carries four 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, nothing has been recovered from conscious possession of the petitioner rather the recovery has been made from the vehicle in question and the petitioner is owner of the vehicle in question and apart from that, co-accused person namely, Radheshyam Kumar has disclosed the name of the petitioner, 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 Court No.-II, Siwan in connection with Raghunathpur Excise 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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