

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.12928 of 2025

Arising Out of PS. Case No.-140 Year-2025 Thana- Excise P.S. District- Muzaffarpur

Bhola Thakur @ Manish Kumar Son of Ashok Kumar Thakur @ Jay Narayan Thakur Resident of Village - Patahi Rup, Ward No.12, P.S. - Sadar, District - Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Upendra Kumar Chaubey, Advocate

For the Opposite Party/s : Mr. Anand Kishore Choudhary, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 28-03-2025 Heard Mr. Upendra Kumar Chaubey, learned counsel for the petitioner and Mr. Anand Kishore Choudhary, learned Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Excise P.S. Case No. 140 of 2025, F.I.R dated 28.01.2025 registered for the offences punishable under Sections 30(a) & 32(3) of Bihar Prohibition and Excise Act.

3. Recovery is of 1519.56 liters of foreign 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 the recovery



has been made from the orchard of the petitioner. He further submits that the petitioner is not the owner of the orchard in question and his name has been transpired on the basis of the disclosure made by the local people that he is the owner of the orchard in question. 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. He further submits that the petitioner carries two criminal antecedents of similar nature other than the present one but fairly submits on the basis of paragraph 3 of the bail petition that the petitioner is on bail in both the cases.

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, 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 Exclusive Special Judge Excise Court No. II, Muzaffarpur in connection with Excise P.S. Case No. 140 of 2025, 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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