

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.17805 of 2025

Arising Out of PS. Case No.-1046 Year-2024 Thana- Excise P.S. District- Kishanganj

Kartik Pal @ Kartik Paul Son of Charan Pal @ Charan Paul Resident of
Village- Ashraf Nagar Sharat Chandra Pally, P.S.- Bhaktinagar, Distt.-
Jalpaiguri (West Bengal)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ram Prawesh Kumar, Advocate
For the Opposite Party/s : Mr. Ram Naresh Ray, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 21-04-2025 Heard Mr. Ram Prawesh Kumar, learned counsel

for the petitioner and Mr. Ram Naresh Ray, learned Additional

Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Madya Nisedh P.S. Case No. 1046 of 2024,
F.I.R dated 06.09.2024 registered for the offences punishable
under Sections 30(a) and 32(3) of Bihar Prohibition and Excise
Act.

3. Recovery is of 315 liters of illicit liquor of
different varieties.

4. Learned counsel for the petitioner submits that
the petitioner has clean antecedent 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 Bolero pick-up van bearing registration no. WB73D-9806. The petitioner has been made accused in the present case merely on the ground that the petitioner is the owner of the vehicle in question. He further submits that the petitioner has given his vehicle to his driver namely, Brij Kishore who was arrested with the vehicle in question carrying the illicit liquor. 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.

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 and 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 District & Additional Sessions Judge-IV-cum-Exclusive Special Judge Excise- II, Kishanganj in connection with Madya Nisedh P.S. Case No. 1046 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 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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