

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23949 of 2025

Arising Out of PS. Case No.-31 Year-2025 Thana- SHIVSAGAR District- Rohtas

Tej Narayan @ Teju Kumhar Son of Late Birbal Rajwar Resident of Village-
Bhadrashila, Police Station- Shivsagar, District- Rohtas at Sasaram

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Raghunandan Kumar Singh, Advocate

For the Opposite Party/s : Md. Shakir Ahmad, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 19-06-2025 Heard Mr. Raghunandan Kumar Singh, learned
counsel for the petitioner as well as Md. Shakir Ahmad, learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Shivsagar P.S. Case No. 31 of 2025, F.I.R.
dated 01.02.2025 for the offences punishable under Section
30(a) of the Bihar Prohibition and Excise Act, 2018.

3. Recovery is of total 12.095 liters of foreign
liquor from two places, some from the mustard field and some
from the motorcycles in question.

4. Learned counsel for the petitioner submits that
the petitioner is innocent and has falsely been implicated in the
present case. He further submits that it appears from the F.I.R
and seizure list that nothing has been recovered from the



conscious possession of the petitioner rather the recovery has been made from the mustard field and motorcycles in question. It is submitted that the petitioner is neither the owner nor the driver of the motorcycle in question. He has no concern at all with the alleged recovery or motorcycles in question. He has been made accused on the basis of suspicion. Except suspicion, no other material come during investigation which suggest involvement of the petitioner in the present case. 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 and also submit that the petitioner carries two criminal antcedent other than the present one but fairly submits on the basis of paragraph 4 of the supplementary affidavit that the petitioner is on bail in the pending matters.



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 circumstances that nothing has been recovered from the conscious possession of the petitioner and he has been made accused only on the basis of suspicion, let the petitioner, above named, in the event of 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. 2- Cum- District and Additional Sessions Judge, Rohtas at Sasaram in connection with Shivsagar P.S. Case No.31 of 2025, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure/ 482 (2) of the 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 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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