

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.17865 of 2025

Arising Out of PS. Case No.-106 Year-2021 Thana- MUSRIGHRARI District- Samastipur

Navin Kumar S/o Munshilal Chaudhary R/o village - Laskara Morwa , Police
Station - Tajpur , District - Samastipur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Mahendra Pratap, Advocate

For the Opposite Party/s : Mr. Md. Mushtaque Alam, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 14-07-2025 Heard Mr. Mahendra Pratap, learned counsel for the
petitioner and Md. Mushtaque Alam, learned Additional Public
Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Musrigharari P.S. Case No.106 of 2021, F.I.R
dated 30.08.2021 registered for the offences punishable under
Section 30(a) of Bihar Prohibition and Excise Act.

3. Recovery is of 581.04 liters of illicit foreign
liquor.

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



conscious possession of the petitioner rather the recovery has been made from the pick-up van and alto car and the petitioner has been made accused in the present case merely on the ground that he being the owner of the motorcycle in question, bearing Registration No. BR33V 4799, which was standing near the place of occurrence. Apart from that, due to previous criminal antecedent, he has been made accused 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. He further submits that the petitioner carries three criminal antecedent of the similar nature other than the present case but fairly submits that he is on bail in all the said cases, as mentioned in paragraph 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) 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, nothing has been recovered from conscious possession of the petitioner and the recovery has been made from the pick-up van and alto car in question and the petitioner has been made accused in the present case merely on the ground that the motorcycle of the petitioner was standing near the place of occurrence, 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 Special Judge Excise-1, Samastipur, in connection with Musrigharari P.S. Case No.106 of 2021, 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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