

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32576 of 2025

Arising Out of PS. Case No.-317 Year-2022 Thana- SONEPUR District- Saran

Bhushan Kumar Ray @ Bhushan Rai @ Bhushan Kumar S/O Vishwanath
Ray R/O Vill.- Sabalpur, P.S.- Sonepur, Dist.- Saran.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The State of Bihar patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Raushan Raj, Advocate
For the Opposite Party/s : Mr. Braj Kishore Pd., A.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 30-07-2025 Heard Mr. Raushan Raj, learned counsel for the

petitioner and Mr. Braj Kishore Prasad, learned Additional

Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Sonepur P.S. Case No. 317 of 2022, FIR dated
06.05.2022 registered for the offences punishable under Section
30(a) of the Bihar Prohibition and Excise Act, 2016.

3. Recovery is of 50 litres country made liquor.

4. Learned counsel for the petitioner submits that it
appears from the FIR as well as the seizure list that nothing has
been recovered from conscious possession of the petitioner
rather the recovery has been made from Jagannath Ghat, which
is an open place and the petitioner has no concern at all with the



alleged recovery and he has been made accused on the basis of disclosure made by local *chawkidaar* as well as the local villagers. 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. He further submits that the petitioner carries three more cases other than the present one, out of three cases two cases is of similar nature and fairly submits 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) 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 that nothing has been recovered from conscious possession of the petitioner and the petitioner has been made accused on the basis of disclosure made by local *chawkidaar* as well as local villagers, 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 2nd Exclusive Special Excise Judge, Saran at Chapra in connection with Sonapur P.S. Case No. 317 of 2022, 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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