

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20023 of 2025

Arising Out of PS. Case No.-30 Year-2024 Thana- Hattha District- Muzaffarpur

Vivek Sahani @ Vivek Sahni S/o Rambabu Sahni @ Rambabu Sahani R/o
Village- Ramjan Nagar, P.S.- Chakmehsi, District- Samastipur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr. Brahmaputra Singh Ishu, Advocate Ms. Poonam Kumari, Advocate
For the Opposite Party/s :	Mr. Kalyan Shankar, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 24-04-2025 Heard Mr. Brahmaputra Singh Ishu, learned
counsel for the petitioner and Mr. Kalyan Shankar, learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Hattha P.S. Case No. 30 of 2024, F.I.R dated
28.04.2024 registered for the offences punishable under
Sections 147, 148, 149, 341, 323, 353, 427, 504 and 506 of the
Indian Penal Code and Section 30(a) of Bihar Prohibition and
Excise Act.

3. Recovery is of 14.130 liters of foreign liquor.

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. He further submits that as per allegation in the F.I.R, the petitioner along with other accused persons have assaulted to the police party in the leadership of the co-accused, namely, Shatrudhan Sahani @ Rohan Sahani. He furthe submits that the petitioner is not named in the F.I.R, and the name of the petitioner has been transpired because of the fact that he along with other accused persons were present at the place of occurrence. 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.

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, there is no specific allegation against the petitioner rather there is general and omnibus allegation against all the accused persons including this petitioner that they have attacked on the police personnel and damaged their vehicles and the petitioner has clean antecedent, 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 Hattha P.S. Case No. 30 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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