

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.25140 of 2025**

Arising Out of PS. Case No.-25 Year-2025 Thana- TARARI District- Bhojpur

=====

Mukesh Kumar S/o Badhai Ram R/o Village - Kusumhi, P.S. - Tarari, Distt.-  
Bhojpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

=====

**Appearance :**

For the Petitioner/s : Mr. Navin Kumar Singh, Advocate  
For the State : Dr. Mrityunjaya Kr.Gautam, APP

=====

**CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA**  
**ORAL ORDER**

2      07-05-2025                      Heard Mr. Navin Kumar Singh, learned counsel for  
the petitioner and Dr. Mrityunjaya Kr. Gautam, learned  
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in  
connection with Tarari P.S. Case No. 25 of 2025, F.I.R dated  
08.02.2025 registered for the offences punishable under Section  
30(a) of Bihar Prohibition and Excise (Amendment) Act, 2018.

3. Recovery is of 240 liters of country made liquor  
and one motorcycle.

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  
that nothing has been recovered from the conscious possession  
of the petitioner rather the recovery has been made from plastic



bags near the boundary wall of one, Nilesh Chaudhary. It is further submitted the petitioner has no concern with the alleged recovery or the motorcycle in question and he has been made accused on the basis of disclosure made by local chowkidar as well as local villagers. Except the aforesaid, no other material has come during investigation which suggest the involvement of the petitioner in the present 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. 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 one criminal antecedent of similar nature other than the present one but fairly submits on the basis of paragraph 3 of the bail petition that the petitioner is on bail in the pending matter.

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 and name of the petitioner transpired on the basis of disclosure made by local chowkidar and 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 the learned Exclusive Special Judge Excise, Excise Court No.-II, Bhojpur, Ara in connection with Tarari P.S. Case No. 25 of 2025, 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)**

priyanka/-

|   |  |   |  |
|---|--|---|--|
| U |  | T |  |
|---|--|---|--|

