

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23780 of 2025

Arising Out of PS. Case No.-440 Year-2023 Thana- BARUN District- Aurangabad

Chhotu Kumar S/O Dayashankar Ram Resident of Village- Harla, P.S-
Sonhan, Distt.- Kaimur (Bhabua).

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Girish Nandan Abhishek, Advocate

For the Opposite Party/s : Mr. Ashok Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 07-05-2025 Heard Mr. Girish Nandan Abhishek, learned counsel

for the petitioner and Mr. Ashok Kumar Singh, learned

Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Barun P.S. Case No. 440 of 2023, F.I.R dated
12.09.2023 registered for the offences punishable under Section
30(a) of Bihar Prohibition and Excise Act.

3. Recovery is of 2.5 liters of country made liquor.

4. Learned counsel for the petitioner submits that
the petitioner has clean antecedent and 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 as per allegation in the F.I.R. 2.5 litres
counter made liquor was recovered from the motorcycle in



question and altogether 13.5 litres of country made liquor was recovered from three different places including the motorcycle of the petitioner and the accused person fled away from the place of occurrence. He further submits that the petitioner is not named in the F.I.R., the name of the petitioner has been transpired during investigation on the basis that the petitioner is owner of motorcycle in question and 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 the motorcycle in question.

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.

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 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 District and Additional Sessions Judge-cum-Special Judge, Excise Court No. 1, Aurangabad in connection with Barun P.S. Case No. 440 of 2023, 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 is directed to furnish the details which suggests that the petitioner has taken the motorcycle in question from TVS Credit Finance Company Ltd. and sold the motorcycle in question to one Ravi Ranjan Kuamr but he has not annexed any paper supporting documents, which suggests that the petitioner has transferred the motorcycle in question to one Ravi Ranjan Kumar, if the petitioner produces such documents then the learned Court below shall accept the bail bond of the petitioner



ii. 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.

iii. 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.

iv. 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)

Jyoti Kumari/-

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