

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25195 of 2025

Arising Out of PS. Case No.-485 Year-2024 Thana- RAFIGANJ District- Aurangabad

Md. Alam @ Sikandar Alam @ Md. Ahmad Alam S/o Md. Shamsher Alam @
Md. Raju R/o Village- Dhuniya Muhalla, P.S.- Rafiganj, District- Aurangabad

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mrs. Mukul Kumari, Advocate
For the State : Mr. Pawan Kumar Chaurasia, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 08-05-2025 Heard Mrs. Mukul Kumari, learned counsel for the

petitioner and Mr. Pawan Kumar Chaurasia, learned APP for the

State.

2. The petitioner is apprehending his arrest in connection with Rafiganj P.S. Case No. 485 of 2024, G.R. No. 488 of 2024, F.I.R. dated 09.09.2024 registered for the offences punishable under Sections 303(2), 3(5) of the B.N.S. and Section 37 of the Bihar Prohibition and Excise Act, 2022.

3. Allegation against the petitioner is of helping in stealing of Rs. 24,000/- from the informant in drunken condition.

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 the



petitioner is not named in the F.I.R. and the name of the petitioner has been transpired on the basis of suspicion and from perusal of the F.I.R. it appears that there is specific allegation against co-accused Md. Aquib who has stolen Rs. 24,000/- from the pocket of the informant in drunken condition and petitioner has been made accused merely on the ground that he is brother of co-accused Md. Aquib. 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. 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 and the fact that the petitioner having clean antecedent and the name of the petitioner has been transpired on the basis that he is brother of co-accused, 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 Special Judge of Excise-01, Aurangabad in connection with Rafiganj PS. Case No. 485 of 2024, G.R. No. 488 of 2024, 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:-

1. 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.

2. 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.



3. 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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