

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23834 of 2025

Arising Out of PS. Case No.-651 Year-2024 Thana- EXCISE KAHALGAON District-
Bhagalpur

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Diga Yadav @ Abhishek Kumar @ Diga S/o Dashrath Yadav R/o vill - Bari
Khanjarpur, ward no. 26, P.S.- Barari, Distt.- Bhagalpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ashutosh Kumar, Advocate
For the Opposite Party/s : Ms. Sucheta Yadav, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 05-05-2025 Heard Mr. Ashuthosh Kumar, learned counsel for

the petitioner and Ms. Sucheta Yadav, learned Additional Public

Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Excise (Kahalgaoon) P.S. Case No. 651 of 2024,
F.I.R dated 15.08.2024 registered for the offences punishable
under Section 30(a) of Bihar Prohibition and Excise
(Amendment) Act, 2018.

3. Recovery is of 54 liters of foreign liquor.

4. Learned counsel for the petitioner submits that
the petitioner has falsely been implicated in the present case. He
further submits that the name of the petitioner has come on the
basis of the confessional statement made by the co-accused



person, namely, Sunny Kumar. He further submits that it appears from the F.I.R and seizure list that nothing has been recovered from the conscious possession of the petitioner rather the recovery has been made from car in question and the petitioner has no concerned with recovery of illicit liquor or car in question and except the confessional statement no other material has come during investigation, which suggests the involvement of the petitioner in the present occurrence.

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 and submits that the petitioner carries one case other than the present one.

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 name of the petitioner has come on the basis of confessional statement made by the co-accused person, 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 A.D.J.-IX-cum-Spl. Judge Excise, Bhagalpur in connection with Excise (Kahalgaon) P.S. Case No. 651 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)

Jyoti Kumari/-

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