

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25975 of 2025

Arising Out of PS. Case No.-128 Year-2025 Thana- SONEPUR District- Saran

J. K. Ray @ Sunil Kumar Yadav S/O Ramayan Ray R/O Village- Rahimpur,
P.S- Sonapur, Distt.- Saran.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Manish Chandra Gandhi, Advocate

For the Opposite Party/s : Mr. Harendra Prasad, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 08-05-2025 Heard Mr. Manish Chandra Gandhi, learned counsel
for the petitioner and Mr. Harendra Prasad, learned Additional
Public Prosecutor for the State.

2. The petitioner is apprehending his arrest connection
with Sonapur P.S. Case No. 128 of 2025, F.I.R. dated
16.02.2025 registered for the offences punishable under Section
30(a) of the Bihar Prohibition & Excise (Amendment) Act,
2022.

3. Recovery is of 265 liters of country made liquor.

4. Learned counsel for the petitioner submits that the
petitioner is innocent 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 rather recovery has been



made from Diara area, on the bank of Ganga river at village Parmanandpur and the petitioner has no concern at all with the alleged recovery of illicit liquor and also from perusal of the F.I.R. as well as seizure list it appears that F.I.R. was instituted on 16.02.2025 at about 08:30 A.M. but the seizure list was prepared at 16:30 P.M. on 16.02.2025 and it appears from the seizure list that the Police Station Case number was also mentioned in the seizure list which suggests that after the institution of the F.I.R. the seizure list was prepared by the prosecution in the police station only to falsely implicate the petitioner. Therefore, the recovery cannot be attributed to the petitioner. 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. He further submits that the petitioner carries two more cases of similar nature but fairly



submits on the basis of paragraph-3 of the bail petition that out of two cases, the petitioner is on bail in one case.

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 circumstances of the case, 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 2nd Exclusive Special Excise Judge, Saran at Chapra in connection with Sonapur PS. Case No. 128 of 2025, 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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