

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25368 of 2025

Arising Out of PS. Case No.-50 Year-2025 Thana- MADHAURAH District- Saran

Rohit Kumar S/o Dara Ram R/o vill - Bikrampur, P.s.- Marhowrah, Distt.-
Saran at Chapra

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ajit Kumar Singh, Advocate
For the State : Mr. Ramesh Chandra, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 30-04-2025 Heard Mr. Ajit Kumar Singh, learned counsel for the

petitioner and Mr. Ramesh Chandra, learned Additional Public

Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Madhaurah/ Marhowrah/ Marhaura P.S. Case
No. 5123071250050 of 2025, F.I.R dated 06.02.2025 registered
for the offences punishable under Section 30(a) of Bihar
Prohibition and Excise Act, 2022.

3. Recovery is of 50 liters of country made Chulai
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 it appears
from the F.I.R that nothing has been recovered from the



conscious possession of the petitioner. Name of the petitioner transpired in this case on the basis of disclosure made by apprehended co-accused person namely, Rahul Kumar. Except the aforesaid, no other material has come during the investigation which suggest the involvement of the petitioner in the present case. Recovery has been made from the motorcycle in question and the petitioner has no concern with the alleged recovery as well as motorcycle in question. 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.

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, the petitioner has clean antecedent and name of the petitioner transpired on the basis of disclosure made by apprehended co-accused person, namely, Rahul Kumar, 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 2nd Special Excise Judge, Saran at Chapra in connection with Madhaurah/ Marhowrah/ Marhaura P.S. Case No. 5123071250050 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)

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