

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.27902 of 2025

Arising Out of PS. Case No.-163 Year-2020 Thana- SULTANGANJ District- Patna

Md. Sahzad @ Tiyaan @ Shahzad S/o Late Md. Shadik Resident of Village-
Dargah Road, PS- Sultanganj, Distt.- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Arvind Kumar Singh, Advocate

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

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 16-06-2025 Heard Mr.Arvind Kumar Singh, learned counsel for
the petitioner and Mr.Shailendra Kumar, learned Additional
Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Sultanganj P.S.Case No.163 of 2020,FIR dated 10.06.2020 registered for the offences punishable under Section 30(a) of Bihar Prohibition and Excise Act and Sections 224, 225, 353, 34 of IPC.

3. Recovery is of 5.25 liters of foreign liquor.

4. Learned counsel for the petitioner submits that the petitioner has clean antecedent and he has falsely been implicated in the present case. The allegation as alleged in the FIR is false and fabricated and the petitioner has not committed any offence as alleged in the FIR. It appears from the FIR as



well as seizure list that nothing has been recovered from conscious possession of the petitioner rather the recovery has been made from the house of co-accused person, namely, Jinnah and allegation against the petitioner is that he stopped the police personnel for arresting the co-accused person, namely, Jinnah alongwith other co-accused persons. 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. Learned A.P.P. for the State has vehemently opposed the prayer for 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) PLJR 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, petitioner has clean antecedent, nothing has been recovered from conscious possession of the petitioner and petitioner has been made accused in the present case merely on the ground that he has obstructed the police personnel from discharging their official duties, 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 Exclusive Special Court of Excise Patna City in connection with Sultanganj P.S.Case No.163 of 2020, 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:-

(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/her absence on two consecutive dates without sufficient reason, his/her 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/her 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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