

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26411 of 2025

Arising Out of PS. Case No.-162 Year-2024 Thana- BASOPATTI District- Madhubani

Pappu Kumar @ Pappu Sahani Son of Rambabu Sahani @ Ramkumar Sahni
Village- Bundelkhand, P.S.- Basopatti, District- Madhubani

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Jitendra Kumar Bharti, Advocate

For the Opposite Party/s : Ms. Asha Kumari, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 01-05-2025 Heard Jitendra Kumar Bharti, learned counsel for
the petitioner and Ms. Asha Kumari, learned Additional
Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Basopatti P.S. Case No. 162 of 2024, dated 28.08.2024 registered for the offences punishable under Sections 274/275 of the BNS, 2023 and Section 30(a) of Bihar Prohibition and Excise Amendment Act, 2022.

3. Recovery is of 48.2 liters of Nepali 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 the recovery has



been made from the motorcycle in question and the petitioner has no concern at all with the alleged recovery of illicit liquor or the motorcycle in question. The name of the petitioner has been transpired on the basis of disclosure made by the local people and except the aforesaid, no other cogent material has come during investigation to suggest the involvement of the petitioner in the present occurrence. 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. Further submits that the petitioner carries one more case other than the present one but fairly submits that the petitioner is on bail in the pending matter, as mentioned in para-3 of the anticipatory bail petition.

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 and circumstance of the case and the fact that nothing has been recovered from conscious possession of the petitioner, 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 District & Additional Sessions Judge-II-cum-Special Judge Excise Act, Madhubani in connection with Basopatti P.S. Case No. 162 of 2024 corresponding to G.R. No. 1218 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:-

(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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