

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26347 of 2025

Arising Out of PS. Case No.-79 Year-2025 Thana- NASRIGANJ District- Rohtas

Chandan Kumar @ Chandan Kumar Singh Son of Dharmendra Singh
Resident of Itimha P.S -Nasriganj, Dist- Rohtas

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sadanand Roy, Advocate
For the State : Mr. Ajay Kumar No. 2, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 14-07-2025 Heard Mr. Sadanand Roy, learned counsel for the

petitioner and Mr. Ajay Kumar No. 2, learned Additional Public

Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Nasriganj P.S. Case No. 79 of 2025, F.I.R dated 03.03.2025 registered for the offences punishable under Section 30(a) of Bihar Prohibition and Excise Act (Amendment) Act 2022.

3. Recovery is of 540 ml of foreign liquor and 15 liters of country made Mahua liquor. It is further alleged that the petitioner fled away from the place of occurrence.

4. Learned counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in the present case. He has been made accused in the present case merely only on the basis of the disclosure made by the local



chowkidar and from a bare perusal of the FIR, it appears that altogether 540 ml of foreign liquor and 15 liters of country made Mahua liquor has been recovered from the cow-shed. 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 the cow-shed. Except the aforesaid, no other material has come during the investigation against the petitioner 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 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. He further submits that the petitioner carries one criminal antecedent other than the present one but fairly submits on the basis of paragraph 3 of the bail petition that the petitioner is on bail in the pending matter.



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 rather recovery has been made from the cow-shed and the petitioner has been made accused in the present case merely on the basis of disclosure made by the local chowkidar, 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 Exclusive Special Judge, Excise Court No. 2, Rohtas at Sasaram in connection with Nasriganj P.S. Case No. 79 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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