

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28772 of 2025

Arising Out of PS. Case No.-21 Year-2025 Thana- YADOPUR District- Gopalganj

Idrish Prasad @ Idresh Prasad @ Indresh Prasad S/O Paras Prasad Resident
of Village - Durg Matihania, P.S. - Bishambharpur, District - Gopalganj

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Bijay Prakash Singh, Advocate

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

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 14-07-2025 Heard Mr. Bijay Prakash Singh, learned counsel
for the petitioner and Mr. Mithlesh Kumar Khare, learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Jadopur P.S. Case No.21 of 2025, F.I.R dated
07.02.2025 registered for the offences punishable under Section
30(a) of Bihar Prohibition and Excise Act.

3. Recovery is of 108.00 liters of I.M.F.L. (Indian
Made Foreign Liquor)

4. Learned counsel for the petitioner submits that
the petitioner has clean antecedent and has falsely been
implicated in the present case. As per the allegation in the F.I.R.,
the petitioner has fled away from the place of occurrence and it
appears from the F.I.R. as well as the seizure list that nothing



has been recovered from conscious possession of the petitioner. Altogether, 108 liters of I.M.F.L. has been recovered from the boat in question, which was situated near the bank of Gandak river. Learned counsel for the petitioner further submits that except suspicion, no other cogent material has come during the course of investigation against the petitioner to suggest the involvement of the petitioner in the present occurrence and the petitioner has no concern at all with the alleged recovery of illicit liquor or the boat 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, the petitioner has clean antecedent and nothing has been recovered from conscious possession of the petitioner and the name of the petitioner has transpired only on the basis of suspicion, 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 Additional District & Sessions Judge – XIII – cum – Special Excise Court No.1, Gopalganj, in connection with Jadopur P.S. Case No.21 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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