

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30558 of 2025

Arising Out of PS. Case No.-114 Year-2024 Thana- Pahelja P.S. District- Saran

Nanhak Sahni @ Raj Kumar Sahani S/O Ram Dayal Sahani R/O Village-
Kharika, PS- Sonapur, Dist- Saran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Narendra Kumar, Advocate

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

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 14-05-2025 Heard Mr. Narendra Kumar, learned counsel for the

petitioner and Mr. Sanjay Kumar Sharma, learned Additional

Public Prosecutor for the State.

2. The petitioner is apprehending his arrest connection
with Pahleja P.S. Case No. 114 of 2024, F.I.R. dated 14.10.2024
registered for the offences punishable under Section 30(a) of
the Bihar Prohibition & Excise Act.

3. Recovery is of 80 liters of country made liquor.

4. Learned counsel for the petitioner submits that the
petitioner is innocent and he has falsely been implicated in the
present case on the basis of disclosure made by local choudidar
and except the aforesaid, no other cogent material has come
during investigation to suggest the involvement of the petitioner
in the present occurrence. 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 recovery has been made from the Guava orchard of Shyamdeo Singh and the petitioner has no concern at all with the alleged recovery of illicit liquor or the Shyamdeo Singh. He further submits that co-accused person namely Nanhak Chaudhary whose name has been transpired on the basis of disclosure made by local choukidar has been granted the privilege of anticipatory bail vide order dated 11.12.2024 passed in Cr. Misc. No. 83708 of 2024 by a Coordinate Bench of this Court. 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. 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 three more cases of similar nature but fairly submits on the basis of paragraph-3 of the bail petition that the petitioner is on bail in the pending matters.



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 that nothing has been recovered from conscious possession of the petitioner and the petitioner has been made accused on the basis of disclosure made by local choukidar and similarly situated co-accused person has been granted the privilege of anticipatory bail by a Coordinate Bench of this Court, 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 2nd Exclusive Special Excise Judge, Saran at Chapra in connection with Pahleja PS. Case No. 114 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:-



1. 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.

2. 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.

3. 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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