

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28859 of 2025**

Arising Out of PS. Case No.-660 Year-2023 Thana- KHAGARIA District- Khagaria

Mantu Kumar @ Mantun Kumar @ Mantun Mehta S/o Ganesh Mahto
Resident of Vill.- Hajipur, Ward No. 17, P.S.- Khagaria, District- Khagaria

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Vikash Khanna, Advocate

For the Opposite Party/s : Mr. Ramesh Chandra, APP

**CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER**

2 08-05-2025 Heard Mr. Vikash Khanna, learned counsel for the

petitioner and Mr. Ramesh Chandra, learned Additional Public

Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Khagaria P.S. Case No. 660 of 2023, F.I.R
dated 02.07.2023 registered for the offences punishable under
Sections 30(a) & 45 of Bihar Prohibition and Excise Act.

3. Recovery is of 2.190 liters of foreign 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 petitioner is named in
the F.I.R and his name has been transpired on the basis of some
document which was received from the co-accused, Rajeev
Yadav and except the aforesaid, no other material has come



during investigation to suggest the involvement of the petitioner in the present occurrence. He further submits that the similarly situated co-accused, namely, Mithlesh Yadav @ Mithlesh Kumar Yadav has been granted anticipatory bail by a Co-ordinate Bench of this Court vide order dated 21.09.2024 passed in Cr. Misc. No. 68499 of 2024. 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. 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 case.

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, name of the petitioner has been transpired on the basis of some document which was recovered from the possession of the co-accused and the similarly situated co-accused person has been granted anticipatory bail by a Co-ordinate 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 the learned Exclusive Special Excise Judge-1st, Khagaria in connection with Khagaria P.S. Case No. 660 of 2023, 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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