

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28919 of 2025

Arising Out of PS. Case No.-965 Year-2018 Thana- FORBESGANJ District- Araria

Nirmal Kumar Nirala @ Nirmal Kumar Pandit S/O Umakant pandit Resident
of village- Pandit tola, Amauna, Police station- Bathnaha, District- Araria

... .. Petitioner/s

Versus

The State of Bihar Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ramesh Kumar Singh, Advocate

For the Opposite Party/s : Mr. Ajay Kumar No. 2, A.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 16-07-2025 Heard Mr. Ramesh Kumar Singh, 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 Forbesganj P.S. Case No. 965 of 2018, FIR
dated 16.12.2018 registered for the offences punishable under
Section 30(a) of the Bihar Prohibition & Excise Act, 2016.

3. Recovery is of 7 bottles each of 100 ml. Dailex
D.C. cough syrup.

4. Learned counsel for the petitioner submits that the
petitioner has clean antecedent and it appears from the F.I.R.
that altogether, 7 bottles each of 100 m. Dailex D.C. cough
syrup was recovered from the motorcycle in question and two
persons were apprehended, namely, Md. Afsar Alam and Kumar



Prasad Saweri and the petitioner has been made accused merely on the ground that the petitioner is owner of the motorcycle in question. 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.

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, petitioner has clean antecedent, nothing has been recovered from conscious possession of the petitioner and he has been made accused



merely on the ground that he is owner of the motorcycle in question, 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 Exclusive Special Judge Excise-I, Araria in connection with Forbesganj P.S. Case No. 965 of 2018, 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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