

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.31214 of 2025**

Arising Out of PS. Case No.-22 Year-2025 Thana- KOTWA District- East Champaran

Rakesh Paswan @ Rakesh Sahani Son of Prasad Paswan R/V- Heman  
Chhapara, Ward No.- 8, P.S.- Kotwa, District - East Champaran

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr. Kundan Rathore @ Kundan Kumar, Advocate  
For the Opposite Party/s : Ms. Veena Kumari Jaiswal, APP

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

3      30-07-2025                      Heard Mr. Kundan Rathore @ Kundan Kumar,  
  
learned counsel for the petitioner and Ms. Veena Kumari  
  
Jaiswal, learned Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Kotwa P.S. Case No. 22 of 2024, F.I.R dated 18.01.2025 registered for the offences punishable under Section 30(a) of Bihar Prohibition and Excise Act.

3. Recovery is of 22 liters of country made liquor.

4. Learned counsel for the petitioner submits that the allegation, as alleged in the F.I.R is false and fabricated. He further submits that as per the allegation in the F.I.R., the petitioner has fled away from the place of occurrence and altogether 22 liters of country made liquor was recovered from the hut in question. Learned counsel for the petitioner submits



that he has no concern at all with the alleged recovery of liquor or the hut in question and except the disclosure made by the local chowkidaar, no other cogent material has come during 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 three cases other than the present but fairly submits that the petitioner is on bail in two matters and one case is pending for consideration before the competent court of law.

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 no concern at all with the alleged recovery of liquor or the hut in question and no other cogent material has come during investigation against the petitioner to suggest the involvement of the petitioner in the present occurrence, 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 Court – 1, Motihari, East Champaran, in connection with Kotwa P.S. Case No.22 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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