

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33599 of 2025

Arising Out of PS. Case No.-154 Year-2025 Thana- EXCISE MAHARAJGANJ District-
Siwan

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Baliram Prasad S/o Late Ramdev Prasad R/o Village- Sihauta Haldihata,
Ward No. 2, P.S.- Maharajganj, District- Siwan

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Satyendra Rai, Advocate
For the Opposite Party/s : Mr. Nityanand, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 22-05-2025 Heard Mr. Satyendra Rai, learned counsel for the

petitioner and Mr. Nityanand, learned Additional Public

Prosecutor for the State.

2. The petitioner is apprehending his arrest connection
with Maharajganj Excise P.S. Case No. 154 of 2025, F.I.R. dated
26.03.2025 registered for the offences punishable under
Sections 30(a), 32(3) of the Bihar Prohibition & Excise Act,
2016 and Amendment Act 2022.

3. Recovery is of 36.390 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 it appears from the F.I.R.
as well as seizure list that altogether 36.390 litres of foreign



liquor was recovered from the house of the petitioner and co-accused namely Laxmina Devi was apprehended along with illicit liquor and Laxmina Devi is the mother of the petitioner. Learned counsel for the petitioner submits that the petitioner is not the exclusive owner of the house in question and the house is the joint family property of the petitioner and it appears from the F.I.R. that on the alleged date of occurrence the petitioner was in Delhi. Therefore, the recovery cannot be attributed to the petitioner. 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 one more case 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 matter.

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 rather recovery has been made from the joint house property of the petitioner, 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 Excise Court No-II, Siwan in connection with Maharajganj Excise PS. Case No. 154 of 2025, 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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