

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33594 of 2025

Arising Out of PS. Case No.-342 Year-2021 Thana- SITAMARHI COMPLAINT CASE
District- Sitamarhi

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Bachababu Kumar S/o Kashi Mahto R/o Village- Kothiya Rai, P.S.- Suppi,
Distt.- Sitamarhi

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Zaki Haider, Advocate

For the Opposite Party/s : Mr. Md. Mushtaque Alam, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 22-05-2025 Heard Mr. Zaki Haider, learned counsel for the

petitioner and Mr. Md. Mushtaque Alam, learned Additional

Public Prosecutor for the State.

2. The petitioner is apprehending his arrest connection
with C-2 Case No. 342 of 2021, F.I.R. dated 17.07.2021
registered for the offences punishable under Section 30(a) of
the Bihar Prohibition & Excise Act, 2016.

3. Recovery is of 180 liters of *Nepali Sufi* liquor.

4. Learned counsel for the petitioner submits that the
petitioner is innocent and he has falsely been implicated in the
present case merely on the ground that the petitioner is the
owner of the Auto Rickshaw from which the illicit liquor was
recovered. He further submits that the allegation as alleged in



the F.I.R. is false and fabricated and nothing has been recovered from the conscious possession of the petitioner and in fact the petitioner has sold the Autho Rickshaw to one Vijay Sah on 05.09.2019 (Annexure-P/2) itself and the said Vijay Sah was apprehended along with the illicit liquor and the Auto Rickshaw. 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 two more cases 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 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 and the fact that nothing has been recovered from conscious possession of the petitioner and the petitioner has been made accused merely on the ground that the petitioner is the owner of the Auto Rickshaw, 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 A.D.J.-2-cum-Exclusive Special Excise Court No.-2, Sitamarhi in connection with C-2 Case No. 342 of 2021, 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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