

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35881 of 2025

Arising Out of PS. Case No.-109 Year-2025 Thana- Excise P.S. District- Aurangabad

Subash Kumar @ Subash Paswan S/o Gopali Paswan @ Gopal Pasawan @
Gopal Paswan R/o Dhaura, Gheura, Neura, P.S.- Kutumba, Distt- Aurangabad

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ashok Singh, Advocate

For the Opposite Party/s : Mr. Umeshanand Pandit, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 23-07-2025 Heard Mr. Ashok Singh, learned counsel for the

petitioner and Mr. Umeshanand Pandit, learned Additional

Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Excise Sadar Aurangabad P.S. Case No. 109 of 2025, F.I.R dated 25.01.2025 registered for the offences punishable under Sections 30(a) and 32(3) of Bihar Prohibition and Excise Amendment Act, 2018.

3. Recovery is of 79.200 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 79.200 liters of foreign liquor has been recovered from the Auto and the



petitioner has been made accused merely on the basis of disclosure made by local people. As per the allegation, the petitioner has fled away from the place of occurrence. He further submits that the petitioner is neither the owner nor the driver of the said Auto in question and except the aforesaid, no other material has come during investigation 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 one criminal antecedent of similar nature 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 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 and he has been made accused merely on the basis of disclosure made by local people, 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 Special Judge, Excise Court No. II, Aurangabad in connection with Excise Sadar Aurangabad P.S. Case No. 109 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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