

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.36290 of 2025

Arising Out of PS. Case No.-141 Year-2024 Thana- MOHANPUR District- Gaya

Vikash Kumar S/o- Satendra Yadav Village- Rajaudha, P.S.- Mohanpur,
District- Gaya

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Binod Murari Mishra, Advocate

For the Opposite Party/s : Mr. Shyam Bihari Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 25-06-2025 Heard Mr. Binod Murari Mishra, learned counsel
for the petitioner and Mr. Shyam Bihari Singh, learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Mohanpur P.S. Case No. 141 of 2024, F.I.R
dated 22.06.2024 registered for the offences punishable under
Section 30(a) of Bihar Prohibition and Excise Act.

3. Recovery is of 1.125 liters of English Wine.

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 1.125 liters of English
Wine has been recovered from the motorcycle in question. He
further submits that the name of the petitioner has been



transpired on the basis of the disclosure made by the apprehended co-accused, namely, Chhotu Kumar. He further submits that the petitioner is neither the owner nor the driver of the motorcycle in question and he has no concerned at all from the alleged recovery of the illiict liquor or the co-accused, Chhotu Kumar. 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. 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 criminal antecedents 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 both the cases.

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 the name of the petitioner has been transpired on the basis of the disclosure made by the apprehended co-accused person, namely, Chhotu Kumar, 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 No. -V, Gaya in connection with Mohanpur P.S. Case No. 141 of 2024, 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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