

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.36331 of 2025

Arising Out of PS. Case No.-47 Year-2025 Thana- PHENHARA District- East Champaran

Sikinder Sahani Son of Late Dhanai Sahani R/O Vill- Bishunpur Basant, Ward
4, P.S.- Phenhara, Distt.- East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Dhannjay Kumar II, Advocate

For the Opposite Party/s : Mr. Anil Kumar, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 25-06-2025 Heard Mr. Dhannjay Kumar II, learned counsel for
the petitioner and Mr. Anil Kumar, learned Additional Public
Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Phenhara P.S. Case No. 47 of 2025, F.I.R dated
09.03.2025 registered for the offences punishable under Section
30(a) of Bihar Prohibition and Excise Act.

3. Recovery is of 15 liters of country made 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 that nothing has been recovered from the conscious
possession of the petitioner rather the recovery has been made
from the joint house property of the petitioner. He further



submits that the petitioner has been made accused due to his previous criminal antecedents. He further submits that the altogether 15 liters of country made wine was recovered from the house of the petitioner and the petitioner has fled away from the place of occurrence and the local chowkidar has identified the petitioner. 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 tha the petitioner carries two criminal antecedents of the 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 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 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 the learned Exclusive Special Excise Court No. 3, East Champaran Motihari in connection with Phenara P.S. Case No. 47 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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