

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35736 of 2025

Arising Out of PS. Case No.-413 Year-2024 Thana- DIGHWARA District- Saran

Shivnath Rai @ Shivnath Yadav S/o Late Indar Rai R/o Village- Basti Jalal,
P.S.- Dighwara, District- Saran at Chapra

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Kaushal Kumar, Advocate

For the Opposite Party/s : Mr. Rana Randhir Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 18-06-2025 Heard Mr. Kaushal Kumar, learned counsel for the

petitioner and Mr. Rana Randhi Singh, learned Additional

Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Dighwara P.S. Case No. 413 of 2024, F.I.R
dated 22.11.2024 registered for the offences punishable under
Section 30(a)/41(i) of Bihar Prohibition and Excise Act.

3. Recovery is of 30 liters of country made liquor.

4. Learned counsel for the petitioner submits that
the petitioner has falsely been implicated in the present case on
the basis of disclosure made by the local chowkidar. He further
submits that the allegation as alleged in the F.I.R is false and
fabricated. He further submits that it appears from the F.I.R and
seizure list that nothing has been recovered from the conscious



possession of the petitioner rather the recovery has been made from the backside of the house of the petitioner and altogether 30 litres of the liquor was recovered along with number of equipments and ferment liquor was also recovered from the place of the occurrence. He further submits that except the aforesaid no other cogent material has come during the investigation which suggests the involvement of the petitioner in the present occurrence.

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 and submits that the petitioner carries two criminal antecedent 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 anticipa Dighwara P.S. Case No. 413 of 2024 tory bail, is



inclined to accept the submission of counsel for the Dighwara P.S. Case No. 413 of 2024 petitioner.

7. Considering the aforesaid facts, nothing has been recovered from conscious possession of the petitioner and the name of the petitioner has been transpired on the basis of disclosure made by the local chowkidar, 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 1st Exclusive Special Excise Court, Saran at Chapra in connection with Dighwara P.S. Case No. 413 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)

Jyoti Kumari/-

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