

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37848 of 2025

Arising Out of PS. Case No.-65 Year-2025 Thana- RAGHOPUR District- Vaishali

Balli Ray Son of Krishna Ray Resident of village - Jafarabad Tok, P.S.-
Rustampur Raghapur, District - Vaishali

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mrs. Bela Singh, Advocate

For the Opposite Party/s : Mrs. Pushpa Sinha.1, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 14-07-2025 Heard Mrs. Bela Singh, learned counsel for the

petitioner and Mrs. Pushpa Sinha.1, learned Additional Public

Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Raghapur P.S. Case No. 65 of 2025, F.I.R dated 15.03.2025 registered for the offences punishable under Sections 274, 275 and 317(5) of the Bhartiya Nyaya Sanhita, 2023 and Section 30(a) of Bihar Prohibition and Excise Act.

3. Recovery is of 601 liters of country made Chulai liquor.

4. Learned counsel for the petitioner submits that the petitioner has clean antecedent and he has falsely been implicated in the present case. She further submits that the allegation as alleged in the F.I.R. is false and fabricated and the



petitioner has not committed any offences as alleged in the F.I.R. She further submits that it appears from the F.I.R that altogether 48 liters of illicit liquor has been recovered from the so called Bhatti of the petitioner. She further submits that the petitioner has no Bhatti and the allegation is false and fabricated and nothing has been recovered from the conscious possession of the petitioner and he has no concern at all from the alleged recovery of the illicit liquor. His name has been transpired on the basis of the disclosure made by the local chowkidar. She further submits that the similarly situated co-accused, namely, Dinesh Rai and others have been granted anticipatory bail by this Court vide order dated 08.05.2025 passed in Cr. Misc. No. 28854 of 2025 and another co-accused, Chintu Rai @ Chintu Kumar has been granted anticipatory bail by another Bench of this Hon'ble Court vide order dated 15.05.2025 passed in Cr. Misc. No. 29360 of 2025. 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.

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 petitioner has clean antecedent, 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. II cum Additional District & Sessions Judge, Vaishali at Hajipur in connection with Raghapur P.S. Case No. 65 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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