

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.36719 of 2025

Arising Out of PS. Case No.-37 Year-2025 Thana- CHAORI District- Bhojpur

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Anish Kumar @ Anish Kumar Singh S/o Jay Kishun Singh R/o Village-
Panwari, P.S- Sikarahata, Distt.- Bhojpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Shiv Prasad Gupta, Advocate

For the Opposite Party/s : Mr. Gauri Shankar Gupta, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 26-06-2025 Heard Mr. Shiv Prasad Gupta, learned counsel

for the petitioner and Mr. Gauri Shankar Gupta, learned

Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Chauri P.S. Case No. 37 of 2025, F.I.R dated
14.03.2025 registered for the offences punishable under Section
30(a) of Bihar Prohibition and Excise (Amendment) Act, 2018.

3. Recovery is of 72 liters of country made 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 nothing has been recovered from
the conscious possession of the petitioner rather the recovery
has been made from the open field. He further submits that on



the basis of the disclosure made by the SHO who happens to be the informant in the present case, the name of the petitioner has been transpired and except the aforesaid, no other material has come during investigation to suggest the involvement of the petitioner in the present occurrence. Although the petitioner is named in the F.I.R and he carries four criminal antecedents other than the present one but none belong to the excise matter and he is on bail in all the four cases. 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 name of the petitioner has been transpired on the basis of the disclosure made by the SHO (informant), 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. 1st, Bhojpur at Ara in connection with Chauri P.S. Case No. 37 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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