

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38290 of 2025**

Arising Out of PS. Case No.-61 Year-2021 Thana- MINAPUR District- Muzaffarpur

Rakesh Kumar Rai @ Rakesh Kumar S/O Srinarayan Ray R/O Village-
Nandana, PS-Minapur, Distt-Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Ms.Nitu Kumari, Advocate

For the Opposite Party/s : Mr.Nityanand, APP

**CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER**

2 14-07-2025 Heard Ms.Nitu Kumari, learned counsel for the

petitioner and Mr.Nityanand, learned Additional Public

Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Minapur (Meenapur) P.S.Case No.61 of 2021,FIR dated 01.03.2021 registered for the offences punishable under Sections 272,273,414,120(B),34 of IPC and Sections 30(a) and 33 of Bihar Prohibition and Excise Act.

3. Recovery is of 107.0 liter of foreign liquor, 06 liter spirit in three drums, lids of one sack, 25 stickers, empty bottles and other articles from the house of Arvind Kumar and 54 liter of foreign liquor from dickey of Xylo vehicle.

4. Learned counsel for the petitioner submits that the petitioner has clean antecedent. The allegation as alleged in the



FIR is false and fabricated and the petitioner has not committed any offence as alleged in the FIR. It appears from the FIR as well as the seizure list that nothing has been recovered from conscious possession of the petitioner rather the recovery has been made from possession of co-accused persons, namely, Mahi Chand Sahni and Arvind Kumar. The name of the petitioner has been transpired during investigation on the basis of the confessional statement of apprehended co-accuse person, namely, Arvind Kumar and except the aforesaid, no other cogent material has come during investigation against the petitioner to suggest the involvement of the petitioner in the present occurrence. There is non-compliance with mandatory procedure prescribed for recovery under Section 100 of Cr.P.C./Section 103 of BNSS, 2023. No case, whatsoever, would be made out against the petitioner under the Bihar Prohibition and Excise Act.

5. Learned A.P.P. for the State has vehemently opposed the prayer for 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) PLJR 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, petitioner has clean antecedent, nothing has been recovered from conscious possession of the petitioner and name of the petitioner has been transpired during investigation on the basis of the confessional statement of apprehended co-accuse person, namely, Arvind Kuma, 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 learned Exclusive Special Judge Excise Court No.1, Muzaffarpur in connection with Minapur (Meenapur) P.S.Case No.61 of 2021, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure/ Section 482(2) of BNSS, 2023 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/her absence on two consecutive dates without sufficient reason, his/her 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/her 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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