

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40499 of 2025

Arising Out of PS. Case No.-147 Year-2022 Thana- SINGHESHWAR District- Madhepura

Md. Sahnawaj @ Md Mister S/O Md Mobin Resident of Village- Jhitkiya,
Ward no. 5, P.S.- Singeshwar, District- Madhepura.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Swapnil Kumar Singh, Advocate
For the State : Mr. Satyendra Narayan Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 07-08-2025 Heard Mr. Swapnil Kumar Singh, learned counsel
for the petitioner and Mr. Satyendra Narayan Singh, learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest connection
with Singheshwar P.S. Case No. 147 of 2022, F.I.R. dated
21.06.2022 registered for the offences punishable under
Sections 30(a) of the Excise Act.

3. Recovery is of 720 ml of foreign 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 recovery has been
made near the Engineering College gate and petitioner has been



made accused on the basis of identification by the informant. Learned counsel for the petitioner submits that the allegation as alleged in the F.I.R. is false and fabricated and the petitioner has been made accused on the basis of suspicion. Therefore, the recovery cannot be attributed to the petitioner. 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. 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. He further submits that the petitioner carries one more case other than the present one but fairly submits that the same is not pertaining to Excise matter and 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 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 been made accused on the basis of suspicion, 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 District & Additional Sessions Judge-Vth cum Special Excise Court-I, Madhepura in connection with Singheshwar PS. Case No. 147 of 2022, 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:-

1. 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.

2. 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.

3. 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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