

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38134 of 2025

Arising Out of PS. Case No.-87 Year-2025 Thana- KHANPURA District- Samastipur

Shri Avkash Kumar Son of Shri Umesh Mahto Village- Masina P.S -Khanpur
District- Samastipur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Pramod Kumar Singh, Advocate
For the State : Mr. Braj Kishore Pd, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 19-06-2025 Heard Mr. Pramod Kumar Singh, learned counsel
for the petitioner and Mr. Braj Kishore Prasad, learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest connection
with Khanpur P.S. Case No. 87 of 2025, F.I.R. dated 15.04.2025
registered for the offences punishable under Section 30(a) of
the Bihar Prohibition & Excise Amendment Act, 2022.

3. Recovery is of 171 liters of *foreign* liquor.

4. Learned counsel for the petitioner submits that the
petitioner has clean antecedent and he has falsely been
implicated in the present case on the basis of disclosure made by
the apprehended co-accused person namely Rajneesh Kumar.
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 from the house of co-accused person namely Dilip Kumar Mahto and except the disclosure made by co-accused person, no other cogent material has come during investigation to suggest the involvement of the petitioner in the present occurrence. 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.

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 the petitioner having clean antecedent and 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 apprehended co-accused person namely Rajneesh Kumar, 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-1, Samastipur in connection with Khanpur PS. Case No. 87 of 2025, 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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