

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40521 of 2025

Arising Out of PS. Case No.-258 Year-2022 Thana- JAYNAGAR District- Madhubani

Sitaram Bhandari S/o- Devnarayan Bhandari Resident of village- Kanhauli
Ward No- 01 PS-Sonbarsa District- Sitamarhi

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shailendra Kumar Jha, Advocate

For the Opposite Party/s : Mr. Pronoti Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 03-07-2025 Heard Mr. Shailendra Kumar Jha, learned counsel
for the petitioner and Mr. Pronoti Singh, learned Additional
Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Jaynagar P.S.Case No.258 of 2022, FIR dated 05.08.2022 registered for the offences punishable under Section 414 of I.P.C. and Section 30(a) of Bihar Prohibition and Excise Act.

3. Recovery is of 7.5 liters of illicit liquor.

4. Learned counsel for the petitioner submits that the petitioner has clean antecedent. He has falsely been implicated in the present case. Further submits that the petitioner has no concern at all with the alleged recovery of illicit liquor and he has been made accused in the present case merely on the ground



that he is the owner of the motorcycle in question. From a bare perusal of the seizure list, it appears that 7.5 litres of illicit liquor has been recovered from the motorcycle of the petitioner. Further submits that in fact the petitioner had given his motorcycle to co-accused person, namely, Raushan Kumar, for some urgent work and he was apprehended along with illicit liquor and the motorcycle in question. There is non-compliance with mandatory procedure prescribed for recovery under Section 100 of Cr.P.C. 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 the petitioner has given the motorcycle in question to co-accused person, namely , Raushan Kumar, and he was apprehended along with the illicit liquor and the motorcycle in question, 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 Special Judge Excise Court, Madhubani in connection with Jaynagar P.S.Case No.258 of 2022, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure/under Section 482(2) of the B.N.S.S., 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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