

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38112 of 2025

Arising Out of PS. Case No.-81 Year-2025 Thana- TURKAULIYA District- East Champaran

Mukesh Kumar @ Mukesh Yadav S/O Durga Yadav R/O Vill.- Shankar Saraiya, P.s.- Turkauliya, Dist.- East Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Suraj Kumar Tiwari, Advocate
For the State : Mr. Sanjay Kumar Pandey, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 19-06-2025 Heard Mr. Suraj Kumar Tiwari, learned counsel for the petitioner and Mr. Sanjay Kumar Pandey, learned Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest connection with Turkauliya P.S. Case No. 81 of 2025, F.I.R. dated 28.02.2025 registered for the offences punishable under Section 30(a), 41(1) of Bihar Prohibition & Excise (Amendment) Act.

3. Recovery is of 50 liters of country made liquor.

4. Learned counsel for the petitioner submits that the petitioner has clean antecedent and he has falsely been implicated in the present case. He further submits that the allegation as alleged in the F.I.R. is false and fabricated and the petitioner has not committed any offence as alleged in the F.I.R. He further submits that it appears from the F.I.R. that nothing



has been recovered from the conscious possession of the petitioner rather recovery has been made from the motorcycle in question and altogether 50 litres of country made liquor was recovered from the motorcycle in question and petitioner has been made accused merely on the ground that the petitioner is the owner of the motorcycle in question. 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 nothing has been recovered from conscious possession of the petitioner and the recovery has been made from the motorcycle in question as well as petitioner having clean antecedent, 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 No. 1, East Champaran, Motihari in connection with Turkauliya PS. Case No. 81 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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