

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38236 of 2025

Arising Out of PS. Case No.-120 Year-2025 Thana- JAYNAGAR District- Madhubani

Sanjay Kumar Rohita S/o Rajendra Rohita @ Rajendra Prasad Rohit R/o
Village- Ward No. 2, Baldiha, Belhi, P.S.- Jaynagar, District- Madhubani

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Gagandeo Yadav, Advocate
	:	Mr.Ravi Prakash, Advocate
For the Opposite Party/s	:	Mr.Jharkhandi Upadhyay, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 23-06-2025 Heard Mr.Gagandeo Yadav, learned counsel for the
petitioner and Mr.Jharkhandi Upadhyay, learned Additional
Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Jaynagar P.S.Case No.120 of 2025,FIR dated
08.04.2025 registered for the offences punishable under
Sections 274,275,317(5) of B.N.S. and Section 30(a) of Bihar
Prohibition and Excise Act,2022.

3. Recovery is of 7.845 liters of illicit liquor.

4. Learned counsel for the petitioner submits that the
petitioner has clean antecedent and he has falsely been
implicated in the present case. 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 that nothing has been recovered from conscious possession of the petitioner rather the recovery has been made from the motorcycle in question and one Indrajeet Kumar was apprehended alongwith motorcycle or the liquor in question. Learned counsel for the petitioner submits that the name of the petitioner has been transpired during investigation on the basis that the petitioner is registered owner of the motorcycle in question. Learned counsel for the petitioner further submits that in fact the petitioner has already sold the motorcycle in question to one Indrajeet Kumar on 16.01.2025 and he has no concern at all with the alleged recovery of illicit liquor or the motorcycle in question. 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 petitioners 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 petitioner has been made accused in the present case merely on the ground that he is owner of the motorcycle in question, in fact the petitioner has already sold the motorcycle in question to one Indrajeet 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 Court), Madhubani in connection with Jaynagar P.S.Case No.120 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:-

(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)

Nitesh/-

U		T	
---	--	---	--

