

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.39552 of 2025

Arising Out of PS. Case No.-426 Year-2021 Thana- SASARAM MUFFSIL District- Rohtas

Jai Prakash Singh @ Guddu Kumar @ Guddu Chaudhary S/o Banshropan Chaudhary @ Banshropan Singh Resident of Village- Wajirganj, P.S.- Sasaram (M) District- Rohtas at Sasaram.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ramchandra Singh, Advocate

For the Opposite Party/s : Ms.Sangeeta Sharma, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 15-07-2025 Heard Mr.Ramchandra Singh, learned counsel for the petitioner and Ms.Sangeeta Sharma, learned Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Sasaram (M) P.S.Case No.426 of 2021,FIR dated 03.12.2024 registered for the offences punishable under Section 30(a) of Bihar Prohibition and Excise Act, 2018.

3. Recovery is of 54.540 liters of illegal liquor.

4. Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the present case on the basis of the disclosure made by the apprehended co-accused person, namely, Ajay Paswan, who happens to be the driver of the Auto in question. It appears from the FIR that nothing has



been recovered from conscious possession of the petitioner rather the recovery has been made from the Auto in question and petitioner is neither the owner nor the driver of the Auto in question and he has no concern at all with the alleged recovery of illicit liquor or the co-accused person, namely, Ajay Paswan and altogether 54.540 liters of foreign liquor was recovered from the Auto 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. Further submits that the petitioner carries two more cases other than the present one, as mentioned in para-3 of the anticipatory bail petition.

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, nothing has been recovered from conscious possession of the petitioner and named of the petitioner has been transpired during investigation on the basis of the disclosure made by the apprehended co-accused person, 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 Excise Court-2, Rohtas at Sasaram in connection with Sasaram (M) P.S.Case No.426 of 2021, 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)

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