

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38109 of 2025

Arising Out of PS. Case No.-339 Year-2022 Thana- CHANDI District- Bhojpur

Santosh Kumar S/o Nandji Yadav R/o vill - Ram Dihal Tola, P.s. - Chandi,
Distt.- Bhojpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Ms. Priya, Advocate
	:	Mr.Prabhat Kumar Singh, Advocate
For the Opposite Party/s	:	Mr.Rajendra Prasad Nat, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 19-06-2025 Heard Ms. Priya, learned counsel for the petitioner

and Mr.Rajendra Prasad Nat, learned Additional Public

Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Chandi P.S.Case No.339 of 2022,FIR dated
29.12.2022 registered for the offences punishable under Section
30(a)of Bihar Prohibition and Excise Amendment Act, 2022.

3. Recovery is of 100 liters of country made Mahua
wine.

4. Learned counsel for the petitioner submits that the
petitioner has falsely been implicated in the present case. It
appears from the FIR as well as seizure list that nothing has
been recovered from conscious possession of the petitioner



rather the recovery has been made from three motorcycles in question and petitioner is owner of one of the motorcycles in question bearing Registration No.BR03R2801 from which 100 liters of country made Mahua wine was recovered. Learned counsel for the petitioner submits that the petitioner was not present at the time of occurrence and he has been made accused in the present case merely on the ground that the petitioner is owner of 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 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. Further submits that the petitioner carries one more case other than the present one but fairly submits that the petitioner is on bail in the said case, 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 petitioner has been made accused in the present case merely on the ground that he is owner of 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 Exclusive Special Excise Court No.1st, Bhojpur at Ara in connection with Chandi P.S.Case No.339 of 2022, 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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