

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41706 of 2025

Arising Out of PS. Case No.-56 Year-2023 Thana- SISWAN District- Siwan

Mithu Yadav @ Mithun Kumar Yadav S/o Bharat Yadav Village- Bhagar ,
P.S.- Siswan, Distt.- Siwan

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ashok Kumar, Advocate

For the Opposite Party/s : Mr. Ram Bilash Roy Raman, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 16-07-2025 Heard Mr. Ashok Kumar, learned counsel for the

petitioner and Mr. Ram Bilash Roy Raman, learned Additional

Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Siswan P.S. Case No. 56 of 2023, F.I.R dated 07.03.2023 registered for the offences punishable under Sections 30(a), 34 and 36 of Bihar Prohibition and Excise Act, 2018.

3. Recovery is of 62 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. He further submits altogether 62 liters of illicit liquor has been recovered near the backside of Bhagar Sarauta road and the petitioner has no concern at all



with the alleged recovery of the illicit liquor. His name has been transpired on the basis of the confessional statement of the co-accused, namely, Jhuna Mallah and except the confessional statement of the co-accused, no other material has come during investigation to suggest the involvement of the petitioner in the present occurrence. He further submits that the similarly situated co-accused, namely, Mukesh Yadav has been granted anticipatory bail by this Court vide order dated 07.10.2023 passed in Cr. Misc. No. 58318 of 2023. There is non-compliance with mandatory procedure prescribed for recovery under Section 100 of Cr.P.C / Section 103 of Bhartiya Nagarik Suraksha Sanhita. 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, he has been made accused on the basis of the confessional statement of the co-accused person and the petitioner has 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 the learned Exclusive Special Excise Court No. II, Siwan in connection with Siswan P.S. Case No. 56 of 2023, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure / Section 482(2) of the Bhartiya Nagarik Suraksha Sanhita 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 absence on two consecutive dates without sufficient reason, his 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 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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