

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.39978 of 2025

Arising Out of PS. Case No.-414 Year-2022 Thana- LALGANJ District- Vaishali

Rajesh Paswan Son of Late Sowarath Paswan @ Shogarath Paswan village
-Jafarabad PS- Lalganj District -Vaishali

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Aashish Kumar Mrs. Bela Singh, Advocates
For the State	:	Mr. Sanjay Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 26-06-2025 Heard Mr. Aashish Kumar, learned counsel for the

petitioner and Mr. Sanjay Kumar Singh, learned Additional

Public Prosecutor for the State.

2. The petitioner is apprehending his arrest connection
with Lalganj P.S. Case No. 414 of 2022, F.I.R. dated 10.11.2022
registered for the offences punishable under Section 30(a) of
the Bihar Prohibition & Excise Act.

3. Recovery is of 100 litres liters of country made
liquor along with 2000 *raw java*.

4. Learned counsel for the petitioner submits that the
petitioner is innocent and he has falsely been implicated in the
present case. He further submits that it appears from the F.I.R.
as well as seizure list that nothing has been recovered from the



conscious possession of the petitioner rather recovery has been made from the Salempur Diyara which is an open place and local people has disclosed the name of the petitioner and the petitioner has no concern at all with the alleged recovery of illicit liquor and he has been made accused on the basis of disclosure made by local people that they have stated that the petitioner has escaped from the place of occurrence. 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. He further submits that the petitioner carries one more case of similar nature other than the present one.

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 rather recovery has been made from Salempur Diyara which is an open place and the name of the petitioner has been transpired on the basis of local people, 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. I-cum-Additional District & Sessions Judge, Vaishali at Hajipur in connection with Lalganj PS. Case No. 414 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:-

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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