

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40318 of 2025

Arising Out of PS. Case No.-64 Year-2025 Thana- MEHSI District- East Champaran

Mukesh Kumar S/O Late Bhikhari sah R/O Vill.- Mohabbat Chhapra, P.s.-
Mehsi, Dist.- East Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Abhishek Kumar, Advocate
For the Opposite Party/s : Mr. Shailendra Kumar, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 03-07-2025 Heard Mr. Abhishek Kumar, learned counsel for the
petitioner and Mr. Shailendra Kumar, learned Additional Public
Prosecutor for the State.

2. The petitioner is apprehending their arrest in
connection with Mehsi P.S. Case No. 64 of 2025, F.I.R. dated
30.03.2025 for the offences punishable under Section 30(a) of
the Bihar Prohibition and Excise Act.

3. Recovery is of 44.20 liters of foreign liquor.

4. Learned counsel for the petitioner submits that
the petitioner has clean antecedent and has falsely been
implicated in the present case. He further submits that the
allegation as alleged in the F.I.R is false and fabricated. He
further submits that it appears from the F.I.R. and seizure list
that altogether 44.250 litres of foreign liquor was recovered
from the bamboo orchard and the petitioner has no concerned



with the alleged recovery of illicit liquor or bamboo orchard or the co-accused person and also from the perusal of the F.I.R. and seizure list, it appears that nothing has been recovered from the conscious possession of the petitioner. He further submits that the name of the petitioner has been transpired on the basis of disclosure made by apprehended co-accused person, namely, Anil Kumar.

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, nothing has been recovered from conscious possession of the petitioner, the name of the petitioner has been transpired on the basis of disclosure



made by 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. -3, East Champaran, Motihari in connection with Mehsi P.S. Case No. 64 of 2025, 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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