

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44793 of 2025

Arising Out of PS. Case No.-100 Year-2025 Thana- KAMTAUL District- Darbhanga

Sanjay Kumar @ Sanjay @ Sanjay Thakur S/O- Late Ramashish Thakur
Resident of Ratanpur, P.S.- Kamtaul, Distt.- Darbhanga

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Dwij Raj, Advocate

For the Opposite Party/s : Mr. Nityanand, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 24-07-2025 Heard Mr. Dwij Raj, learned counsel for the

petitioner and Mr. Nityanand, learned Additional Public

Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Kamtaul P.S. Case No. 100 of 2025, F.I.R dated 07.05.2025 registered for the offences punishable under Section 30(a) of Bihar Prohibition and Excise Amendment Act, 2016.

3. Recovery is of 632.880 liters of Indian made Foreign liquor.

4. Learned counsel for the petitioner submits that the petitioner is innocent and he has falsely been implicated in the present case due to his previous criminal antecedent as well as secret information. 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 as well as seizure list that nothing has been recovered from the conscious possession of the petitioner rather the recovery has been made from the vehicle in question and the petitioner is neither the owner nor the driver of the said vehicle. He further submits that except the aforesaid, no other material has come during investigation to suggest the involvement of the petitioner in the present occurrence. 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. 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 huge quantity of illicit liquor has been recovered from the vehicle in question and apart from that the petitioner carries two criminal antecedents of similar nature other than the present one but fairly submits on the basis of paragraph 3 of the bail petition that the petitioner is on bail in both the cases.



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 and the name of the petitioner has been transpired on the basis of the secret information, 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 Special Court Excise-I, Darbhanga in connection with Kamtaul P.S. Case No. 100 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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