

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.46152 of 2025**

Arising Out of PS. Case No.-226 Year-2025 Thana- Excise P.S. District- Nawada

Rahul Kumar @ Tiger Son of Ram Briksh Yadav Resident of Village-  
Mirjapur (Gondapur), Kanhai Nagar, P.S.- Nagar (Nawada), District- Nawada,

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr. Man Mohan Kumar, Advocate  
For the State : Mr. Abhay Kumar Roy, APP

**CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA**  
**ORAL ORDER**

2      31-07-2025                      Heard Mr. Man Mohan Kumar, learned counsel for  
the petitioner and Mr. Abhay Kumar Roy, learned Additional  
Public Prosecutor for the State.

2. The petitioner is apprehending his arrest connection  
with Nawada Excise P.S. Case No. 226 of 2025, F.I.R. dated  
11.04.2025 registered for the offences punishable under Section  
30(a) of the Bihar Prohibition & Excise Act, 2016.

3. Recovery is of 15.375 liters of *foreign* liquor and  
7.00 Litres of *beer*.

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 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 and



altogether 15.375 liters of *foreign* liquor and 7.00 litres of *beer* were recovered from the bag in question and one person was apprehended namely Avinash Kumar who has disclosed the name of the petitioner and he has stated that the petitioner was involved in the present crime in question and the petitioner provided the aforesaid liquor and supplied to other persons. He further submits that except the disclosure made by apprehended co-accused person, no other material has come during investigation against the petitioner in the present 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.

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 and the fact that petitioner having clean antecedent and nothing has been recovered from conscious possession of the petitioner and the name of the petitioner has been transpired on the basis of disclosure made by apprehended co-accused person, 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 Court, Excise-2, Nawada in connection with Nawada Excise P.S. Case No. 226 of 2025, 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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