

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.44845 of 2025**

Arising Out of PS. Case No.-157 Year-2025 Thana- BHARGAMA District- Araria

Devnarayan Sardar son of Kushum Lal Village- Jay Nagar Ward No 08 Police  
Station- Bhargama District- Araria

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

|                          |   |                                  |
|--------------------------|---|----------------------------------|
| For the Petitioner/s     | : | Mr. Kundan Kumar Singh, Advocate |
|                          |   | Ms. Rushali Singh, Advocate      |
| For the Opposite Party/s | : | Mr. Rana Randhir Singh, APP      |

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

2      24-07-2025                      Heard Mr. Kundan Kumar Singh, learned counsel for  
the petitioner and Mr. Rana Randhir Singh, learned Additional  
Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in  
connection with Bhargama P.S. Case No. 157 of 2025, F.I.R  
dated 11.05.2025 registered for the offences punishable under  
Section 30(a) of Bihar Prohibition and Excise Act, 2016.

3. Recovery is of total 9 liters of country made  
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 from a  
bare perusal of the FIR and seizure list, it appears that nothing



has been recovered from the conscious possession of the petitioner rather the recovery has been made from two places, one from the house of the petitioner and another from the house of the co-accused person, namely, Suresh Sardar. Altogether 9 liters of country made liquor was recovered from house of the petitioner and from the house of the co-accused person, namely, Suresh Sardar. It is further submitted that petitioner is not the exclusive owner of the house in question rather the house from where recovery has been made, is a joint property of the petitioner. 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 for the State 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, petitioner has clean antecedent, nothing has been recovered from conscious possession of the petitioner rather recovery has been made from the joint house property of the petitioner, 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 Judge-cum-Special Judge Excise-II, Araria in connection with Bhargama P.S. Case No. 157 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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