

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48400 of 2025

Arising Out of PS. Case No.-18 Year-2025 Thana- Badem P.S. District- Aurangabad

Prince Singh S/o- Harendra Singh R/o Village-Simari Jaitiya P.s. Navinagar
Dist- Aurangabad

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Pramendra Kumar Singh, Advocate

For the Opposite Party/s : Mr.Jagdhara Prasad, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 06-08-2025 Heard Mr.Pramendra Kumar Singh, learned counsel
for the petitioner and Mr.Jagdhara Prasad, learned Additional
Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Badem P.S.Case No.18 of 2025,FIR dated 17.03.2025 registered for the offences punishable under Section 30(a) of Bihar Prohibition and Excise Amendment Act, 2018.

3. Recovery is of 18.500 liters of illicit foreign liquor.

4. Learned counsel for the petitioner submits that it appears from the FIR as well as the seizure list that nothing has been recovered from conscious possession of the petitioner rather the recovery has been made from Maruti Alto Car in question and petitioner has been made accused in the present case merely on the ground that he is owner of the Car in



question. In fact the petitioner has given the said Car to his villager, namely, Ram Jee to bring his wife from the hospital and the said Car was apprehended by the police. 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. Learned A.P.P. for the State has vehemently opposed the prayer for 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. Further submits that the petitioner recovery has been made from the vehicle in question and petitioner is registered owner of the vehicle in question and apart from that, the petitioner carries four more cases other than the present one but fairly submits that the cases which are pending against the petitioner are not pertaining to Excise matter and petitioner is on bail in all the cases, as mentioned in para-3 of the bail petition.

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) PLJR 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 and petitioner has been made accused in the present case merely on the ground that he is owner of the vehicle in question, 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 District and Additional Sessions Judge-cum-Exclusive Special Judge, Excise Court No.-1, Aurangabad in connection with Badem P.S.Case No.18 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:-

(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/her absence on two consecutive dates without sufficient



reason, his/her 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/her 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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