

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44833 of 2025

Arising Out of PS. Case No.-305 Year-2024 Thana- SIKARPUR District- West Champaran

Jitendra Kumar Dubey S/o Yagyanand Dubey R/o Village- Kudwamathiya,
P.S.- Kumarbagh, District- West Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Ms. Madhu Mala Kumari, Advocate
For the State : Mr. Parmanand Prasad, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 24-07-2025 Heard Ms. Madhu Mala Kumari, learned counsel for

the petitioner and Mr. Parmanand Prasad, learned Additional

Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Shikarpur P.S. Case No. 305 of 2024, F.I.R
dated 03.05.2024 registered for the offences punishable under
Section 30(a) of Bihar Prohibition and Excise Act.

3. Recovery is of total 60 liters of illegal liquor.

4. Learned counsel for the petitioner submits that
the petitioner has clean antecedent and has falsely been
implicated in the present case. She 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 motorcycle in



question and one, Ibrahim Quareshi was apprehended on the spot along with the illicit liquor and the motorcycle in question and petitioner has been accused merely on the ground that he is the owner of the motorcycle in question. 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 motorcycle in question and petitioner has been made accused in the present case merely on the ground that he is the owner of the motorcycle 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 the learned Exclusive Special Judge Excise Court-II, Bettiah, West Champaran in connection with Shikarpur P.S. Case No. 305 of 2024, 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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