

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44864 of 2025

Arising Out of PS. Case No.-559 Year-2022 Thana- TAJPUR District- Samastipur

Rajesh Kumar Singh S/o Krishna Singh R/o Village- Medhpur, Singhara, P.S.-
Mahua, Distt- Vaishali

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Surya Narayan Roy, Advocate
For the State : Ms. Sucheta Yadav, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 24-07-2025 Heard Mr. Surya Narayan Roy, learned counsel for
the petitioner and Ms. Sucheta Yadav, learned Additional Public
Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Tajpur (Halai) P.S. Case No. 559 of 2022, F.I.R dated 21.11.2022 registered for the offences punishable under Sections 272, 273/34 of the IPC and 30(a) of Bihar Prohibition and Excise Act, 2016.

3. Recovery is of 5220.350 liters of foreign liquor.

4. Learned counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in the present case. He further submits that the allegation as alleged in the F.I.R is false and fabricated. 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 the truck in question. Altogether 5220.350 liters of foreign liquor was recovered from the truck in question which was standing in the campus of co-accused Sandeep Kumar Sharma and as per FIR, petitioner has fled away from the place of occurrence. It is further submitted that the name of the petitioner has been transpired during the investigation on the basis of secret information. 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. He further submits that the petitioner carries two more cases of similar nature other than the present one.

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, nothing has been recovered from conscious possession of the petitioner rather recovery has been made from the truck in question and name of the petitioner has been transpired during investigation on the basis of 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 Judge, Excise-II, Samastipur in connection with Tajpur (Halai) P.S. Case No. 559 of 2022, 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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