

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45032 of 2025

Arising Out of PS. Case No.-134 Year-2025 Thana- JOKIHAT District- Araria

Md. Amir @ Aniruddin @ Ammi S/o Kalimuddin @ Md. Kalim R/o vill -
Maiyari, ward no. 13, P.S.- Jokihat, Distt.- Araria

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Vijay Kishore Bharti, Advocate

For the Opposite Party/s : Mr. Jharkhandi Upadhyay, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 17-07-2025 Heard Mr. Vijay Kishore Bharti, learned counsel
for the petitioner and Mr. Jharkhandi Upadhyay, learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Jokihat P.S. Case No. 134 of 2025, F.I.R dated
27.04.2025 registered for the offences punishable under Section
30(a) of Bihar Prohibition and Excise Act, 2016.

3. Recovery is of 50 liters of illicit liquor.

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 rather
the altogether 50 liters of liquor has been recovered from three



accused persons where 15 liters of liquor has been recovered from the house of the petitioner. He further submits that the petitioner is not the absolute owner of the house in question rather the same is the joint house property of the petitioner and he has no concern at all from the alleged recovery of the illicit liquor. 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 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 that nothing has been recovered from conscious possession of the petitioner, the house in question is the joint house property of the petitioner and the petitioner has clean antecedent, 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 District Additional Sessions Judge–cum-Special Judge Exclusive Special Excise Judge- II, Araria in connection with Jokihat P.S. Case No. 134 of 2025, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure / Section 482(2) of the BNSS 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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