

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48598 of 2025

Arising Out of PS. Case No.-160 Year-2025 Thana- SIMRI District- Darbhanga

Subhash Kumar S/o Chhathu Sahani R/o Village- Sakriman Ward No. 11,
P.S.- Hatha, District- Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ajay Kumar Tiwary, Advocate
For the State : Mr. Anil Kumar Singh No. 1, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 11-08-2025 Heard Mr. Ajay Kumar Tiwary, learned counsel for
the petitioner and Mr. Anil Kumar Singh No.1, learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Simri P.S. Case No. 160 of 2025, F.I.R dated
22.05.2025 registered for the offences punishable under Section
30(a) of Bihar Prohibition and Excise Act, 2022 (Amended).

3. Recovery is of 1641.6 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 it appears from the F.I.R
itself that on the basis of secret information, name of the
petitioner has been implicated in the present case. It is further
submitted that nothing has been recovered from the conscious
possession of the petitioner and as per allegation the petitioner is



driver of the tanker in question. Petitioner has no concern at all with the alleged recovery of the illicit liquor or the vehicle in question and except the secret information, no other material has come during investigation against the petitioner to suggest the involvement of the petitioner in the present occurrence. It is further submitted that the co-accused person, namely, Gulshan Kumar has been granted privilege of anticipatory bail by this Court vide order dated 06.08.2025 passed in Cr. Misc No. 48281 of 2025. 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 three cases other than the present one and out of three cases, one case is of similar nature but fairly submits on the basis of paragraph 3 of the bail petition that the petitioner is on bail in the pending matters.



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 and co-accused person has been granted privilege of anticipatory bail by this Court, 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 No.-II, Darbhanga in connection with Simri P.S. Case No. 160 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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