

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48632 of 2025

Arising Out of PS. Case No.-649 Year-2025 Thana- Excise P.S. District- Aurangabad

Nandu Paswan @ Nandu Prasad @ Nandu Prasad Gupta S/o Shiv Varan Saw
R/o Village- Sudamdih, P.S.- Sudamdih, District- Dhanbad (Jharkhand)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Ms. Mukul Kumari, Advocate

For the State : Mr. Bishweshwar Ram, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 11-08-2025 Heard Ms. Mukul Kumari, learned counsel for the

petitioner and Mr. Bishweshwar Ram, learned Additional Public

Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Daudnagar Excise P.S. Case No. 649 of 2025, G.R. No. 1165 of 2025, F.I.R dated 17.06.2025 registered for the offences punishable under Section 30(a), 32(3) of Bihar Prohibition and Excise (Amendment) Act, 2018 and 37 of the Bihar Prohibition and Excise Amendment Act, 2022.

3. Recovery is of 2.00 liters of foreign 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 the allegation as alleged in the F.I.R is false and fabricated and the petitioner has not committed any offence as alleged in the FIR. She further



submits that it appears from the F.I.R and seizure list that nothing has been recovered from the conscious possession of the petitioner rather the recovery has been made from a Scorpio bearing Registration No. JH 09T 5633. Petitioner has been made accused in the present case merely on the ground that he is owner of the vehicle in question and in fact the petitioner has given the vehicle in question to the co-accused, namely, Karan Kumar @ Golu who has been apprehended with the liquor and vehicle 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 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, nothing has been recovered from conscious possession of the petitioner, the petitioner has clean antecedent and he has been made accused in the present case merely on the ground that he is the 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 the learned Special Judge of Excise-II, Aurangabad in connection with Daudnagar Excise P.S. Case No. 649 of 2025, G.R. No. 1165 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. One of the bailors should be the son of the petitioner, namely, Manoj Kumar Gupta.

ii. 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.

iii. 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.

iv. 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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