

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48703 of 2025

Arising Out of PS. Case No.-70 Year-2021 Thana- RAUTA District- Purnia

Neshar Khan S/o Late Salim Khan Resident of Azad Colony, Baldoria, P.S.-
Dal Kola, District- Uttar Dinazpur, West Bengal

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Raj Kumar, Advocate

For the Opposite Party/s : Mr.Ram Sevak Choudhary, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 12-08-2025 Heard Mr.Raj Kumar, learned counsel for the

petitioner and Mr.Ram Sevak Choudhary, learned Additional

Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Rauta P.S.Case No.70 of 2021,FIR dated 10.07.2021 registered for the offences punishable under Sections 272,273 and 34 of IPC and Section 30(a) of Bihar Prohibition and Excise Act, 2016.

3. Recovery is of 312.480 liters of beer/ foreign liquor.

4. Learned counsel for the petitioner submits that the petitioner has clean antecedent. It appears from the FIR as well as the seizure list that nothing has been recovered from conscious possession of the petitioner rather the recovery has



been made from the vehicle in question and one person, namely, Praveen Kumar was apprehended and he has not disclosed the name of the petitioner rather he has disclosed the name of one Santosh Kumar, who happens to be the driver of the vehicle in question and petitioner has been made accused in the present case merely on the ground that he is owner of the vehicle in question and it appears from the FIR that altogether 312.480 liters of beer/ foreign liquor was recovered from the vehicle in question. There is non-compliance with mandatory procedure prescribed for recovery under Section 100 of Cr.P.C./Section 103 of BNSS, 2023. No case, whatsoever, would be made out against the petitioner under the Bihar Prohibition and Excise Act.

5. Learned A.P.P. for the State has vehemently opposed the prayer for 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) PLJR 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, even the apprehended person has not disclosed the name of the petitioner and petitioner has been made accused in the present case merely on the ground that he is 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 learned Exclusive Special Judge, Excise,Court-II, Purnea in connection with Rauta P.S.Case No.70 of 2021, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure/ Section 482(2) of BNSS, 2023 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/her absence on two consecutive dates without sufficient



reason, his/her 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/her 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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