

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48387 of 2025

Arising Out of PS. Case No.-155 Year-2021 Thana- BAHERA District- Darbhanga

Rajesh Mishra @ Rajesh Baba @ Rajesh Kumar Mishra S/o Rajkumar Mishra
R/o vill - Ramauli, (near Laxminath Mandir), P.s.- Benipur, Dist.- Darbhanga

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr.Bhanu Pratap Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 12-08-2025 Heard Ms.Madhumala Kumari, learned counsel for
the petitioner and Mr.Bhanu Pratap Singh, learned Additional
Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Bahera P.S.Case No.155 of 2021,FIR dated 02.08.2021 registered for the offences punishable under Section 30(a) of Bihar Prohibition and Excise Act, 2016.

3. Recovery is of 4124.46 liters of foreign liquor.

4. Learned counsel for the petitioner submits that the petitioner has clean antecedent and he has falsely been implicated in the present case. The allegation as alleged in the FIR is false and fabricated and the petitioner has not committed any offence as alleged in the FIR. Learned counsel for the petitioner submits that the name of the petitioner has been



transpired during investigation on the basis of the confessional statement of co-accused person, namely, Santosh Jha and when the police has submitted chargesheet on 25.11.2023 then the petitioner came to knowledge about the present case and except the confessional statement of co-accused person, no other material has come during investigation against the petitioner to suggest the involvement of the petitioner in the present occurrence and petitioner has no concern at all with the alleged recovery of illicit liquor or the Truck in question and similarly situated co-accused persons, namely, Ram Kumar Jha @ Munna Jha and Chandramoli Jha have been granted privilege of anticipatory bail by different Coordinate Benches of this Hon'ble Court vide orders dated 29.04.2022 and 02.09.2022 passed in Cr. Misc. Nos.21405 of 2022 and 28458 of 2022 respectively. 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, name of the petitioner has been transpired during investigation on the basis of the confessional statement of co-accused person and similarly situated co-accused persons have been granted privilege of anticipatory bail by different Coordinate Benches of this Hon'ble 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 learned Exclusive Special Judge-II Excise Act, Darbhanga in connection with Bahera P.S.Case No.155 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)

Nitesh/-

U		T	
---	--	---	--

