

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46298 of 2025

Arising Out of PS. Case No.-185 Year-2024 Thana- SRINAGAR District- West Champaran

Jawahir Yadav Son of Late Rajendra Yadav Resident of village - Masan Dhab,
P.S.- Srinagar, District - West Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sharad Kumar Verma, Advocate

For the Opposite Party/s : Mr. Nand Kumar, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 31-07-2025 Heard Mr. Sharad Kumar Verma, learned counsel for
the petitioner and Mr. Nand Kumar, learned Additional Public
Prosecutor for the State.

2. The petitioner is apprehending his arrest connection
with Srinagar P.S. F.I.R. No. 185 of 2024, F.I.R. dated
29.12.2024 registered for the offences punishable under Section
30(a) of the Bihar Prohibition & Excise Act, 2016.

3. Recovery is of 23.6 liters of illicit liquor.

4. Learned counsel for the petitioner submits that the
petitioner is innocent 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 and altogether 23.6 litres
of illicit liquor was recovered from the bank of Koeripatti



Bandh and the name of the petitioner has been transpired on the basis of disclosure made by local Choukidar. Learned counsel for the petitioner submits that co-accused person namely Chandeshwar Yadav has been granted the privilege of anticipatory bail by a Coordinate Bench of this Court vide order dated 27.06.2025 passed in Cr. Misc. No. 39730 of 2025. Therefore, the recovery cannot be attributed to the petitioner. 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. 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. He further submits that the petitioner carries two more cases other than the present one but fairly submits on the basis of paragraph-3 of the bail petition that out of two cases, one case pertaining to Excise matter and out of two cases, the petitioner is on bail in one case.

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 and the name of the petitioner has been transpired on the basis of disclosure made by local Choukidar as well as similarly situated co-accused person has been granted the privilege of anticipatory bail by a Coordinate Bench of 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 learned Exclusive Special Judge, Excise-II, West Champaran at Bettiah in connection with Srinagar P.S. F.I.R. No. 185 of 2024, 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:-

1. 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.

2. 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.

3. 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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