

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48530 of 2025

Arising Out of PS. Case No.-123 Year-2025 Thana- KADAMKUAN District- Patna

Rahul Kumar Son of Kalendra Chaudhary R/o - Professor Colony, Shahganj,
P.S.- Sultanganj, Distt.- Patna (Owner of Yamaha Cygnus Ray ZR Scooty
bearing Reg. No.- BR01FF7830, Chesis No.- ME1SEG453M0110949,
Engine No.- E32SE0367803)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

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

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 07-08-2025 Heard Mr.Nityanand Kumar, 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 Kadamkuan P.S.Case No.123 of 2025,FIR
dated 20.02.2025 registered for the offences punishable under
Section 30(a)of Bihar Prohibition and Excise Act.

3. Recovery is of 25.920 liters of English Wine.

4. Learned counsel for the petitioner submits that the
petitioner has clean antecedent. As per allegation in the FIR,
25.920 liters of English Wine was recovered from the Scooty in
question and petitioner has been made accused in the present
case merely on the ground that he is registered owner of the



Scooty in question. Learned counsel for the petitioner submits that in fact the petitioner has given the Scooty in quesiton to one Rahul Kumar Son of Shashi Yadav for some personal work and he has misued the Scooty in question of the petitioner and he was apprehended alongwith the aforesaid illicit liquor. 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 and petitioner has been made accused in the present case merely on the ground that he is registered owner of the Scooty 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 Special Judge Excise-II, Patna in connection with Kadamkuan P.S.Case No.123 of 2025, 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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