

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48346 of 2025

Arising Out of PS. Case No.-335 Year-2025 Thana- Excise P.S. District- Kaimur (Bhabua)

Ramji Chaudhary S/o Motilal Chaudhary R/o Village- Morsharay (Kanjrar),
P.S.- Shiv Sagar, District- Rohtas

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Kiran Kumari Sharma, Advocate

For the Opposite Party/s : Mr. Dr. Kumar Uday Pratap, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 06-08-2025 Heard Ms. Kiran Kumari Sharma, learned counsel
for the petitioner and Dr. Kumar Uday Pratap, learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Bhabhua P.S. Case No. 335 of 2025, F.I.R dated 13.05.2025 registered for the offences punishable under Sections 30(a), 32(i) & (iii), 41(1) & (2) of Bihar Prohibition and Excise (Amendment) Act, 2022.

3. Recovery is of 52.200 liters foreign liquor.

4. Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the present case. He further submits that the allegation as alleged in the F.I.R is false and fabricated and he has not committed any offence as alleged in the FIR. He 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 recovery has been made from the co-accused person, namely, Akhil Kumar Rai and he was apprehended along with the illicit liquor and petitioner has been made accused in the present case merely on the ground that he was the driver of the 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. He further submits that the petitioner was the driver of the vehicle in question. Apart from that, petitioner carries one more criminal antecedent of similar nature, but fairly submits on the basis of paragraph 3 of the bail petition that he is on bail in the pending matter.

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 the conscious possession of the petitioner and the petitioner has been made accused merely on the ground that he is the driver of the vehicle in question and although the recovery has been made from the apprehended co-accused person, 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 Excise-II, Kaimur at Bhabhua in connection with Bhabhua P.S. Case No. 335 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. 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.

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 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)

saauravkrsinha/-

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

