

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48321 of 2025

Arising Out of PS. Case No.-211 Year-2025 Thana- BANJARIA District- East Champaran

Dinesh Mahto S/o Ram Chandra Mahto R/o Village- Chailahan Musahari
Tola, P.S.- Banjariya, District- East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

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

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 06-08-2025 Heard Mr. Karandeep Kumar, learned counsel for
the petitioner and Mr. Jitendra Kumar Singh, learned Additional
Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Banjariya P.S. Case No. 211 of 2025, F.I.R dated 09.04.2025 registered for the offences punishable under Sections 274, 275 of Bharatiya Nyaya Sanhita, 2023 and Section 30(a), 41(1) of Bihar Prohibition and Excise (Amendment) Act.

3. Recovery is of 30 liters of country made liquor.

4. Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the present case. It appears from the FIR as well as seizure list that nothing has been recovered from the conscious possession of the petitioner



rather recovery has been made from the Shisham orchard which does not belong to the petitioner rather his name has been transpired on the basis of disclosure made by local chaukidar and the local chaukidar has informed the prosecution that the petitioner was present at the time of occurrence and he escaped from the place of occurrence. He further submits that the allegation as alleged in the F.I.R is false and fabricated. He further submits that it appears from the F.I.R that nothing has been recovered from the conscious possession of the petitioner and except the disclosure made by the local chaukidar, there is no evidence that the petitioner was present at the place of occurrence. 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 petitioner carries two more criminal antecedents of similar



nature other than the present one, 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 and the fact that the name of the petitioner has been transpired on the basis of disclosure made by local chaukidar and nothing has been recovered from the conscious possession of the petitioner, 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 Court No. 1, East Champaran, Motihari in connection with Banjariya P.S. Case No. 211 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)

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