

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48690 of 2025

Arising Out of PS. Case No.-660 Year-2023 Thana- KHAGARIA District- Khagaria

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Titu @ Adarsh Kumar Son of Dinesh Kumar Resident of village - Hajipur,
PS. and District - Khagaria

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Jai Kishor Poddar, Advocate

For the Opposite Party/s : Mr. Md. Iftekhar Mahmood, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 01-08-2025 Heard Mr. Jai Kishor Poddar, learned counsel for the

petitioner and Mr. Md. Iftekhar Mahmood, learned Additional

Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Khagaria P.S. Case No. 660 of 2023, F.I.R.
dated 02.07.2023 for the offences punishable under Sections
30(a) and 45 of Bihar Prohibition and Excise Act.

3. Recovery is of 2.19 litres of foreign liquor.

4. Learned counsel for the petitioner submits that the
petitioner has clean antecedent. The allegation as alleged in the
F.I.R. is false and fabricated and the petitioner has not
committed any offence as alleged in the F.I.R. It appears from
the F.I.R. itself that nothing has recovered from the conscious
possession of the petitioner rather recovery has been made near
the kiosk of Ajay Sah and the petitioner has been made accused
on the basis of the confessional statement of co-accused person,
namely, Rajdeep Yadav. He further submits that the similarly



situated co-accused person, namely, Mithlesh Yadav @ Mithlesh Kumar Yadav has been granted privilege of anticipatory bail by this Court vide order dated 21.09.2024 passed in Cr. Misc. No. 68499 of 2024 and another co-accused, namely, Mantu Kumar @ Mantun Kumar @ Mantun Mehta has been granted privilege of anticipatory bail by this Court vide order dated 08.05.2025 passed in Cr. Misc. No. 28859 of 2025. 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.

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, the petitioner has clean antecedent, his name has been transpired 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 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 the learned Exclusive Special, Excise Judge-1st, Khagaria in connection with Khagaria P.S. Case No. 660 of 2023, 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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