

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.74900 of 2024

Arising Out of PS. Case No.-410 Year-2016 Thana- GHORASAHAN District- East
Champaran

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Ramesh Sahani S/o Langatu Sahani R/o- Sarsaula, P.S- Lakhaura, Distt.- East
Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Kundan Rathore, Advocate
For the Opposite Party/s : Md. Nazir Ansari, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 22-03-2025 Heard Mr. Kundan Rathore, learned counsel for the

petitioner and Md. Nazir Ansari, learned Additional Public

Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Ghorasahan (Jitna) P.S. Case No. 410 of 2016,
F.I.R dated 17.10.2016 registered for the offences punishable
under Sections 272 and 273 of the Indian Penal Code and
Section 30(a) of Bihar Prohibition and Excise Amendment Act,
2016.

3. Recovery is of 27 liters of Nepali liquor.

4. Learned counsel for the petitioner submits that the
petitioner has clean antecedent 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 rather the recovery has been made from co-accused person. He further submits that infact the petitioner is not named in the F.I.R and his name has been transpired on the basis of the disclosure made by the co-accused, namely, Mukesh Sahani. 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. 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 that the petitioner has clean antecedent and his name has been transpired on the basis of the disclosure made by the 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 Exclusive Special Judge Excise Court No. 3, Motihari, East Champaran in connection with Ghorasahan (Jitna) P.S. Case No. 410 of 2016, 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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