

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.79083 of 2024

Arising Out of PS. Case No.-173 Year-2023 Thana- PUNPUN District- Patna

RAJU KUMAR S/o Vishwanath Bhagat R/o Village- Raipura, Milki Par, P.S.-
Fatuha, District- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Jay Ram Prasad, Advocate

For the Opposite Party/s : Mr. Mritunjay Kumar Nirala, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 19-06-2025 Heard Mr. Jay Ram Prasad, learned counsel for the
petitioner as well as Mr. Mritunjay Kumar Nirala, learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Punpun P.S. Case No. 173 of 2023, F.I.R. dated
25.05.2023 for the offences punishable under Section 30(a) of
the Bihar Prohibition and Excise Act.

3. Recovery is of 440 liters of country made liquor.

4. Learned counsel for the petitioner submits that
the petitioner has clean antecedent and has falsely been
implicated in the present case. He further submits that petitioner
is not named in the FIR and name of the petitioner transpired
during investigation because one Santro Car bearing
Registration No. BR 1X 5213 was standing near the garage of



the petitioner and the same number car was recovered by the police from which 440 liters of country made liquor was recovered. It is further submitted that the real owner of the car in question which was standing near the garage of the petitioner is one, Dr. Raj Kumar Sinha and the petitioner has no concern at all with the alleged recovery which was recovered from another car but accused person has used the number of the car which was standing near the garage of the petitioner. 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 that the petitioner has clean antecedent, nothing has been recovered from conscious possession of the petitioner and he has been made accused on the basis of suspicion, let the petitioner, above named, in the event of 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- 2nd, Patna, in connection with Punpun P.S. Case No. 173 of 2023, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure/ 482(2) of the 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 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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