

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.75142 of 2024**

Arising Out of PS. Case No.-377 Year-2024 Thana- BATHNAHA District- Sitamarhi

Ganesh Prasad Yadav Son of Pragas Rai Resident of Village - Turkauliya, P.S.  
- Bathnaha, District - Sitamarhi

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr.Hans Lal Kumar, Advocate

For the Opposite Party/s : Mr.Parmanand Prasad, APP

**CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA**  
**ORAL ORDER**

3      22-03-2025                      Heard   Mr.Hans Lal Kumar, learned counsel for the  
  
petitioner and Mr.Parmanand Prasad,   learned Additional Public  
  
Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Bathnaha P.S.Case No.377 of 2024,FIR dated 18.08.2024 registered for the offences punishable under Sections 30(a) of Bihar Prohibition and Excise Act, 2018.

3. Recovery is of 3.6 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. It appears from the FIR as well as the seizure list that nothing has been recovered from conscious possession of the petitioner rather the recovery has been made from the motorcycle in question and the petitioner has been



made accused in the present case merely on the ground that he is owner of the motorcycle in question and altogether 3.6 liters of Nepali liquor has been recovered from the dicky of the motorcycle. There is non-compliance with mandatory procedure prescribed for recovery under Section 100 of Cr.P.C./Section 103 of BNSS, 2023. No case, whatsoever, would be made out against the petitioners under the Bihar Prohibition and Excise Act.

5. Learned A.P.P. for the State has vehemently opposed the prayer for 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) PLJR 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, petitioner has clean antecedent and nothing has been recovered from conscious



possession of the petitioner and the petitioner has been made accused in the present case merely on the ground that he is owner of the motorcycle in question, 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 learned Exclusive Special Court No.1, Sitamarhi in connection with Bathnaha P.S.Case No.377 of 2024, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure/ Section 482(2) of 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/her absence on two consecutive dates without sufficient reason, his/her 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/her 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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