

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.72770 of 2025

Arising Out of PS. Case No.-398 Year-2025 Thana- MALSALAMI District- Patna

Rohit Kumar @ Muchu S/o Ranjeet Prasad R/o Mohallah- Sawarchak Hata,
Post- Begampur, P.S.- Malsalami, District- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ram Jiban Pd Singh, Advocate

For the Opposite Party/s : Mr. Md. Anzarul Haque Sahara, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 16-10-2025 Heard the parties.

2. The petitioner is apprehending his arrest in connection with Malsalami P.S. Case No. 398 of 2025 for the offence under section 30(a) of the Bihar Prohibition and Excise Act lodged on 01.08.2025 by the informant, Chandrashekhar Azad.

3. As per the prosecution story, the Police during patrolling intercepted a '*Tempo*' and from it, there is recovery/seizure of 91.08 liters of foreign liquor and one persons namely, Sudhanshu was arrested who gave the name of this petitioner where it was to be delivered. This led to the FIR.

4. Learned counsel for the petitioner submits that neither he owns the '*Tempo*' nor anything recovered from his conscious possession and only because Sudhanshu gave the name, implicated.

5. Further, learned counsel for the petitioner relied on



the judgment of the Full Bench of Hon'ble Patna High Court in the case of **Ram Vinay Yadav vs. State of Bihar** reported in **2019 (2) PLJR 1089** wherein it has been held that an application for anticipatory bail in a case arising out of Bihar Excise and Prohibition Act can be maintained, despite the bar under Section 76(2) of the Act, if on the basis of allegation made in the FIR, no offence under the said provision is made out.

6. Learned APP opposes the prayer submitting that he has been named by the arrested person.

7. Taking into account the submissions of the parties and the judgment in the case of **Ram Vinay Yadav (supra)** as also that nothing has been recovered from his conscious possession nor he owns the vehicle, in that background, this Court is inclined to extend him the privilege of anticipatory bail with conditions.

8. Let the petitioner be released on bail in the event of arrest or surrender within a period of four weeks from the receipt of this order, on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of like amount each to the satisfaction of learned Exclusive Special Court of Excise, Patna City in connection with Malsalami P.S. Case No. 398 of 2025 subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(i) one of the bailor should be the family member/relative of the petitioner who shall provide official



document to show his/her bona fide;

(ii) the petitioner shall appear on each and every date before the Trial Court and failure to do so for two consecutive dates without plausible reason will entail cancellation of his bail bond by the Trial Court itself;

(iii) the petitioner shall appear before the concerned police station every fortnight for six months to mark his attendance and after the end of the period, the certificate shall be submitted before the Trial Court failing which steps shall be taken for the cancellation of the bail bonds;

(iv) the petitioner shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of the bail bonds;

(v) the petitioner shall desist from committing any criminal offence again, failing which the State shall be at liberty to take steps for cancellation of his bail bonds.

(Rajiv Roy, J)

Adnan/-

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