

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.75599 of 2025**

Arising Out of PS. Case No.-424 Year-2025 Thana- MALSALAMI District- Patna

Vikas Kumar @ Ghocha @ Vikash Kumar S/o Sahdeo Mahto @ Bhainsa,  
Resident of Village- Jamunapur, Shiv Mandir, Madhaav Mills, P.S.-  
Malsalami, District- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr. Shyam Kumar Chaudhary, Advocate

For the Opposite Party/s : Mr. Nityanand, APP

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

2      18-11-2025                      Heard Mr. Shyam Kumar Chaudhary, learned  
counsel for the petitioner and Mr. Nityanand, learned Additional  
Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in  
connection with Malsalami P.S. Case No. 424 of 2025, F.I.R.  
dated 16.08.2025 registered for the offences punishable under  
Sections 25(1-b)a/26/35 of Arms Act and 30(a) of Bihar  
Prohibition and Excise Act.

3. Recovery is of one country made pistol and two  
cartridge from pocket of co-accused, one airgun and 1.950 litres  
of foreign liquor.

4. Learned counsel for the petitioner submits that  
the petitioner is innocent and has falsely been implicated in the



present case. He further submits that the allegation as alleged in the F.I.R is false and fabricated. He further submits that it appears from the F.I.R that nothing has been recovered from the conscious possession of the petitioner rather the recovery has been made from apprehended co-accused person, namely, Sanjay Ray @ Nanki and he has disclosed that the recovered articles belong to the petitioner and except the disclosure made by co-accused person, no other cogent material is available against the petitioner, which suggest the involvement of the petitioner in the present occurrence. 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. He further submits that that the petitioner carries eight criminal antecedents other than the present one but fairly submits on the basis of paragraph-3 of the bail application that the petitioner is on bail in the pending



matters.

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, nothing has been recovered from conscious possession of the petitioner and the his name transpired on the basis of disclosure made by apprehended 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 Special Judge Excise, Patna City, Patna in connection with Malsalami P.S. Case No. 424 of 2025, 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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