

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.86629 of 2024

Arising Out of PS. Case No.-856 Year-2024 Thana- Excise P.S. District- Gaya

Sudhir Kumar Son of Naresh Yadav @ Naresh Prasad Resident of Village-
Harnarayanpur, P.S.- Shirdala, District- Nawada

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Ms. Shivalika Sinha, Advocate
	:	Mr.Yogesh Kumar, Advocate
For the Opposite Party/s	:	Mr.Dr. Kumar Uday Pratap, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 19-04-2025 Heard Ms. Shivalika Sinha, learned counsel for the

petitioner and Mr.Dr. Kumar Uday Pratap, learned Additional

Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Excise P.S.Case No.856 of 2024,FIR dated 25.08.2024 registered for the offences punishable under Sections 30(a) and 32(3) of Bihar Prohibition and Excise Act.

3. Recovery is of 10 liters of Mahua 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 seizure list that nothing has been recovered from conscious possession of the petitioner rather the recovery has been made



from the motorcycle in question. Although the petitioner is owner of the motorcycle in question but it is admitted fact that the petitioner was not apprehended alongwith illicit liquor. 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 petitioner 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, nothing has been recovered from conscious possession of the petitioner and 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 Excise Judge No.3, Gaya in connection with Excise P.S.Case No.856 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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