

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.85762 of 2024

Arising Out of PS. Case No.-602 Year-2023 Thana- Excise P.S. District- Araria

Manoj Singh @ Manoj Baherdar @ Manoj Son of Jharilal Bahardar, R/o-
Village- Gori Chowk, Ward No. 09, Police Station -Araria, District -Araria.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s :	Mr. Kundan Kumar Singh, Advocate Ms. Rushali, Advocate
For the Opposite Party/s :	Mr. Bishweshwar Ram, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 31-01-2025 Heard Ms. Rushali, the learned counsel for the

petitioner and Mr. Bishweshwar Ram, the learned Additional

Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in

connection with Araria Excise Case No. 602 of 2023, FIR dated

26.07.2023, registered for the offences punishable under Section

30(a) of the Bihar Prohibition and Excise Act.

3. Recovery is of 106.875 litres of foreign liquor and

118 litres of beer.

4. Learned counsel for the petitioner submits that

petitioner has falsely been implicated in the present case and

petitioner is not named in the FIR and name of petitioner

transpired on the basis of disclosure made by the co-accused



person namely, Pappu Kumar Bhagat and it is evident from the FIR itself that nothing has been recovered from the conscious possession of the petitioner. He further submits that except the disclosure made by the co-accused person no other cogent material has come during investigation which suggest the involvement of the petitioner in the present occurrence. He further submits that petitioner has been made accused in the present case merely on the basis of his previous criminal antecedents of similar nature. 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. The learned Additional Public Prosecutor for the State on the other hand 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 petitioner carries six criminal antecedents of similar nature, but fairly submits that 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 and circumstances and mainly the facts that nothing has been recovered from conscious possession of the petitioner and petitioner is not named in the FIR and name of petitioner transpired merely on the basis of disclosure made by co-accused person, let the petitioner, above-named, in the event of his arrest or surrender before the learned trial Court within a period of thirty days from the date of receipt of the order, be released on anticipatory 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 Additional District Judge-cum-Special Judge Excise-II, Araria, where the case is pending in connection with **Araria Excise Case No. 602 of 2023**, subject to the conditions as laid down under Section 438(2) of the Cr.P.C. / Section 482(2) of the BNSS, 2023 and also the following conditions:-

(i). Petitioner shall co-operate in the trial and shall



be properly represented on each and every date fixed by the learned trial Court and shall remain physically present as directed by the learned trial Court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the learned trial Court.

(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 learned trial Court 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 learned trial Court shall take steps 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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