

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1314 of 2025

Arising Out of PS. Case No.-44 Year-2024 Thana- JOGBANI District- Araria

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Dhiraj Kumar Baidya @ Dheeraj S/O Shivilal Baidya Ward No 15, Resident
Of Village High School Chowk Jogbani, P.S.- Jogbani, Dist.- Araria

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Shivesh Kumar Singh

For the Opposite Party/s : Mr. Dilip Kumar No. 1

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 28-04-2025 Heard Mr. Shivesh Kumar Singh, learned counsel

for the petitioner and Mr. Dilip Kumar No. 1, learned Additional

Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Jogbani P.S. Case No. 44 of 2024, F.I.R dated
23.02.2024 registered for the offences punishable under Section
30(a) of Bihar Prohibition and Excise (amendment) Act, 2018.

3. Recovery is of 375 ml Nepali liquor.

4. Learned counsel for the petitioner submits that
the petitioner has clean antecedent 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 and he
has not committed any offence as alleged in the F.I.R. He further
submits that it appears from the F.I.R and seizure list that



nothing has been recovered from the conscious possession of the petitioner rather the recovery has been made from the scooty in question and the petitioner has been implicated in the present case only on the ground that the petitioner is the owner of the scooty in question. He further submits that the petitioner had already sold the scooty in question to one Shakila Begum on 26.13.2023 itself and the petitioner has no concern with the alleged recovery of the liquor or the scooty in question.

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.

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, the



petitioner has clean antecedent and the petitioner has been made accused only on the ground that he is owner of the scooter in question but he had already sold the scooter in question long back in 26.12.2013 to one Shakila begum, 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 Additional District Judge-cum-Special Excise-II, Araria in connection with Jogbani P.S. Case No. 44 of 2024, 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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