

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4695 of 2025

Arising Out of PS. Case No.-434 Year-2024 Thana- BABUBARHI District- Madhubani

Utim Paswan S/O Late Mahendra Paswan R/o Village - Bathuaha, Police
Station- Babubarhi, District- Madhubani

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ashad, Adv.

For the Opposite Party/s : Mr.Ahmad Ali, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 08-05-2025 Heard Mr. Ashad, learned counsel for the petitioner
and Mr. Ahmad Ali, learned Additional Public Prosecutor for the
State.

2. The petitioner is apprehending his arrest in
connection with Babubarhi P.S. Case No. 434 of 2024, F.I.R
dated 01.10.2024 registered for the offences punishable under
Section 30(a) of Bihar Prohibition and Excise Act.

3. There is recovery of 14 liters of illicit liquor.

4. Learned counsel for the petitioner submits that the
petitioner has falsely been implicated in the present case. He
further submits that from the F.I.R itself, it appears that nothing
has been recovered from the conscious possession of the
petitioner rather the recovery has been made from a thatched
house meant for animal. 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. By way of filing supplementary affidavit, it has been stated by the petitioner that he carries three criminal antecedents of similar nature along with the present one but he is on bail in all the cases except the present one.

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. It is next submitted that the petitioner carries three criminal antecedents of similar nature along with the present one.

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, 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 Sessions/ District Judge IInd cum-Special Judge, Excise Madhubani in connection with aforesaid PS Case, 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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