

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.88726 of 2024**

Arising Out of PS. Case No.-303 Year-2024 Thana- KAKO District- Jehanabad

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1. Pawan Kumar S/o- Ram Bachan Yadav Village- Devraj Bigha P.S. Kako District- Jehanabad
  2. Vidhyanand Yadav S/o- Naresh Yadav Village- Devraj Bigha P.S. Kako District- Jehanabad

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Paras Nath, Advocate

For the Opposite Party/s : Mr. Surendra Kumar, APP

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

2      08-01-2025                      Heard Mr. Paras Nath, learned counsel for the  
petitioners and Mr. Surendra Kumar, learned APP for the State.

2. After some arguments, learned counsel for the  
petitioners submits that during the pendency of the petition,  
petitioner no. 2, namely, Vidhyanand Yadav has been arrested  
and as such he seeks permission to withdraw the application  
with respect of petitioner no. 2, namely, Vidhyanand Yadav as  
having become infructuous.

3. Permission is accorded.

4. The bail application with respect to petitioner no.2,  
namely, Vidhyanand Yadav is dismissed as withdrawn as having  
become infructuous.

5. The petitioner no. 1 is apprehending his arrest in



connection with Kako (Bhelawar) Case No. 303 of 2024, dated 20.10.2024 registered for the offences punishable under Section 30(a) of the Bihar Prohibition & Excise Amendment Act, 2018.

6. The case relates to recovery of 25 litres of Mahua liquor.

7. Learned counsel for the petitioner no. 1 submits that the petitioner no. 1 has clean antecedent and he has falsely been implicated in the present case. He further submits that it appears from the F.I.R. that the recovery has been made from the bamboo thickets situated at Cremation Ghat and nothing has been recovered from the conscious possession of the petitioner. He further submits that the petitioner has no concern at all with the alleged recovery and he has been made accused due to village politics and some of the villagers has disclosed the name of the petitioner. Therefore, the recovery cannot be attributed to the petitioner. 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.

8. The learned Additional Public Prosecutor has vehemently opposed the prayer for anticipatory bail of the petitioner no. 1 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.



9. 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) PLJ.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.

10. Considering the aforesaid facts that the petitioner no. 1 having clean antecedent and nothing has been recovered from conscious possession of the petitioner no. 1 and the name of the petitioner no. 1 has been transpired on the basis of disclosure made by local villager, let the petitioner no. 1, 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 Special Judge Excise-I, Jehanabad in connection with Kako (Bhelawar) PS. Case No. 303 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:-

1. Petitioner no. 1 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.

2. If the petitioner no. 1 tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

3. And further condition that the court below shall verify the criminal antecedent of the petitioner no. 1 and in case at any stage it is found that the petitioner no. 1 has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner no. 1. 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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