

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4 of 2025

Arising Out of PS. Case No.-122 Year-2020 Thana- NADI P.S. District- Patna

Sanjay Rai Son of Balkishun Rai Resident of Village - Fatehjangpur, P.S. -
Nadi, District - Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Jay Ram Prasad, Advocate

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

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 17-01-2025 Heard Mr.Jay Ram Prasad, learned counsel for the
petitioner and Mr.Binod Kumar, learned A.P.P. for the State.

2. The petitioner is apprehending his arrest in connection with Spl. Case No.4595 of 2020 (arising out of Nadi P.S.Case No.122 of 2020),FIR dated 30.07.2020 registered for the offences punishable under Section 30(a) of Bihar Prohibition and Excise Amendment Act, 2018.

3. Recovery is of 1860 liters of country made liquor.

4. Learned counsel for the petitioner submits that the petitioner has clean antecedent and he has falsely been implicated in the present case. The allegation as alleged in the FIR is false and fabricated and the petitioner has not committed any offence as alleged in the FIR and the petitioner has been made accused in the present case merely on the ground that the



name of the petitioner was mentioned in the Register which was recovered at the place of occurrence and it appears that nothing has been recovered from conscious possession of the petitioner rather the recovery has been made from the Boat in question and the petitioner is not the owner of the Boat in question and co-accused persons, namely, Dharmendra Rai and Birendra Rai have been granted privilege of anticipatory bail by this Court vide order dated 29.11.2022 passed in Cr.Misc. Nos.24131 of 2022 and 24541 of 2022 respectively. 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, the petitioner has been made accused in the present case merely on the ground that the name of the petitioner was mentioned in the Register which was recovered at the place of occurrence and co-accused persons, namely, Dharmendra Rai and Birendra Rai have been granted privilege of anticipatory bail by this Court, 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 Special Judge Excise, Patna City, Patna in connection with Spl. Case No.4595 of 2020 (arising out of Nadi P.S.Case No.122 of 2020),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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