

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2343 of 2025

Arising Out of PS. Case No.-307 Year-2024 Thana- BIBHUTIPUR District- Samastipur

Babloo Kumar S/o Bipat Mahto R/o vill - Deshari, Ward no. 17, P.S.-
Bibhutipur, District- Samastipur

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Ms. Supriya Kumari, Advocate

For the State : Mr. Md. Mushtaque Alam, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 28-04-2025 Heard Ms. Supriya Kumari, learned counsel for the

petitioner and Mr. Md. Mushtaque Alam, learned Additional

Public Prosecutor for the State.

2. The petitioner is apprehending his arrest connection
with Bibhutipur P.S. Case No. 307 of 2024, F.I.R. dated
18.09.2024 registered for the offences punishable under Section
30(a) of the Bihar Prohibition & Excise Act, 2022.

3. Recovery is of 7.875 liters of *foreign* liquor.

4. Learned counsel for the petitioner submits that the
petitioner has clean antecedent and he has falsely been
implicated in the present case. She further submits that it
appears from the F.I.R. as well as seizure list that nothing has
been recovered from the conscious possession of the petitioner
rather recovery has been made from the Dhaba/Hotel in



question. She further submits that the name of the petitioner has been transpired on the basis of disclosure made by co-accused person namely Sudin Kumar who happens to be the brother of petitioner and owner of the Hotel in question. 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.

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 that and the fact that



the petitioner having clean antecedent and nothing has been recovered from conscious possession of the petitioner and petitioner was escaped from the place of occurrence and the name of the petitioner has been transpired 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 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 Act, Samastipur in connection with Bibhutipur PS. Case No. 307 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 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 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 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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