

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.88636 of 2024

Arising Out of PS. Case No.-232 Year-2024 Thana- JALALPUR District- Saran

Rajesh Singh @ Rajesh Kushwaha @ Doctor S/O Ashok Kushwaha Resident
of Noor Nagar, P.S.- Jalalpur, District- Saran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Harish Kumar, Advocate

For the Opposite Party/s : Mr.Md. Nazir Ansari, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 08-01-2025 Heard Mr.Harish Kumar, learned counsel for the

petitioner and Mr.Md. Nazir Ansari, learned Additional Public

Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Jalalpur P.S.Case No.232 of 2024,FIR dated
06.10.2024 registered for the offences punishable under
Sections 30(a),33,34,36,41(2)(1) of Bihar Prohibition and
Excise Act.

3. Recovery is of 106 liters of foreign liquor.

4. Learned counsel for the petitioner submits that the
petitioner has falsely been implicated in the present case on the
basis of the disclosure made by the apprehended co-accused
person, namely, Sanjay Mishra and it appears from the FIR itself
that the recovery has been made from behind the house of co-



accused person, namely, Jai Prakash Mishra and except the disclosure made by the co-accused person, no other material has come during investigation against the petitioner to suggest the involvement of the petitioner in the present occurrence. 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 petitioners 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. Further submits that the petitioner carries four more cases other than the present one but fairly submits that the petitioner is on bail in all the cases, as mentioned in para-3 of the anticipatory bail petition.

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 and 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 learned Exclusive Special Excise Judge-2, Saran in connection with Jalalpur P.S.Case No.232 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:-

(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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