

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.89120 of 2024

Arising Out of PS. Case No.-141 Year-2024 Thana- EXCISE ARERAJ District- East
Champaran

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Satyendra Kumar @ Satendra Kunwar @ Satendra Kumar Son of Late Goni
Kunwar @ Late Goni Kumar Resident of Village- Dilawarpur, P.S.- Kesariya,
Distt.- East Champaran.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner : Mr. Arvind Kumar, Advocate
For the Opposite Party : Mr. Akbar Ali, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

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

the petitioner and Mr. Akbar Ali, the learned Additional Public

Prosecutor for the State.

2. The petitioner is apprehending his arrest in

connection with Excise (Areraj) PS Case No. 141 of 2024, FIR

dated 28.05.2024, registered for the offence punishable under

Section 30(a) of the Bihar Prohibition and Excise Act.

3. Recovery is of 45 litres of country made liquor.

4. Learned counsel for the petitioner submits that

petitioner has clean antecedent and he has falsely been

implicated in the present case. He further submits that petitioner

is not named in the FIR and his name transpired during

investigation on the ground that petitioner is the owner of the



seized motorcycle in question. He further submits that earlier the petitioner has sold the said motorcycle long back in the year 2019 to one Sunil Das and he has also annexed Annexure-2, which suggests that petitioner has indeed sold the said motorcycle to Sunil Das in the year 2019. There is non-compliance with mandatory procedure prescribed for recovery under Section 100 of the 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 for the State on the other hand 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 and circumstances and mainly the facts that petitioner has clean antecedent, nothing has been recovered from conscious possession of the petitioner and name of petitioner transpired merely on the ground that he is the owner of the motorcycle in question, in fact petitioner has sold the said motorcycle long back in the year 2019, let the petitioner, above-named, in the event of his arrest or surrender before the learned trial Court within a period of thirty days from the date of receipt of the order, be released on anticipatory 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 Exclusive Special Excise Court No. II, East Champaran at Motihari, where the case is pending in connection with **Excise (Areraj) PS Case No. 141 of 2024**, subject to the conditions as laid down under Section 438(2) of the Cr.P.C. / Section 482(2) of the BNSS, 2023 and also the following conditions:-

(i). Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the learned trial Court and shall remain physically present as directed by the learned trial Court and on his absence on two consecutive dates without sufficient reason, his bail bond shall



be cancelled by the learned trial Court.

(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 learned trial Court 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 learned trial Court shall take steps 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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