

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.698 of 2025

Arising Out of PS. Case No.-469 Year-2021 Thana- PURNEA SADAR District- Purnia

Ritesh Kumar S/o Ashok Singh R/o Village- Barahiya Ind Tola, Ward No. 12,
P.S.- Barahiya, District- Lakhisarai

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Om Prakash Maharaj, Advocate

For the Opposite Party/s : Mr.Dashrath Mehta, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 31-01-2025 Heard Mr.Om Prakash Maharaj, learned counsel for
the petitioner and Mr.Dashrath Mehta, learned Additional Public
Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Purnia Sadar P.S.Case No.469 of 2021, FIR dated 10.09.2021 registered for the offences punishable under Sections 273 and 273 of IPC and Section 30(a) of Bihar Prohibition and Excise Act, 2016.

3. Recovery is of 1339.125 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. 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 from a bare perusal of the



FIR it appears that nothing has been recovered from conscious possession of the petitioner and petitioner has been made accused in the present case merely on the ground that the petitioner is owner of the Truck in question. Learned counsel for the petitioner submits that the petitioner has already sold the Truck in question to one Mukesh Kumar in the year 2021 itself and he has annexed the Annexures-2 and 3 of the bail petition which suggests that the petitioner has already sold the Truck in question to one Mukesh Kumar. 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.

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, petitioner has been made accused in the present case merely on the ground that the petitioner is owner of the Truck in question and in fact the petitioner has already sold the vehicle in question long back in the year 2021 itself, 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 Judge, Excise Court-01, Purnea in connection with Purnia Sadar P.S.Case No.469 of 2021, 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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