

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.451 of 2025

Arising Out of PS. Case No.-396 Year-2024 Thana- BAIRIYA District- West Champaran

Guddu Mahto @ Guddu Kumar Son of Anirudh Mahto Resident of Village-
Fuliakhanda, P.S.- Bairiya, Dist.- West Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sharad Kumar Verma, Advocate

For the Opposite Party/s : Mr.Shyameshwar Dayal, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 21-04-2025 Heard Mr.Sharad Kumar Verma, learned counsel for
the petitioner and Mr.Shyameshwar Dayal, learned Additional
Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Bairiya P.S.Case No.396/2024, FIR dated 11.11.2024 registered for the offences punishable under Sections 274,275 of Bhartiya Nyaya Sanhita, 2023 and Sections 30(a)/41(1)of Bihar Prohibition and Excise Act, 2016.

3. Recovery is of 66.720 liters of illegal liquor.

4. Learned counsel for the petitioner submits that the petitioner has clean antecedent and he has falsely been implicated in the present case. It appears from the FIR as well as the seizure list that nothing nothing has been recovered from conscious possession of the petitioner rather the recovery has



been made from the Motorcycle in question and petitioner is neither the owner nor the driver of the motorcycle in question and petitioner has no concern at all with the alleged recovery of illicit liquor or the motorcycle in question and name of the petitioner has been transpired during investigation on the basis of the disclosure made by the local Chaukidar and except the disclosure made by the local Chaukidar, no other cogent 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 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 and name of the petitioner has been transpired during investigation on the basis of the disclosure made by the local Chaukidar, 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-I, West Champaran at Bettiah in connection with Bairiya P.S. Case No.396/2024, 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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