

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20795 of 2026

Arising Out of PS. Case No.-355 Year-2025 Thana- EKMA District- Saran

Nitesh Kumar Son of Rameshwar Upadhyay Resident of Village - Ramgharha
Tola Mardanpur, P.S.- Duraondha, District - Siwan.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Piyush Parasar, Advocate

For the Opposite Party/s : Mr. Md. Iftekhar Mahmood, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

2 08-04-2026 Heard Mr. Piyush Parasar, learned counsel for the
petitioner and the State.

2. The petitioner is apprehending his arrest in connection with Ekma P.S. Case No. 355 of 2025 for the offence under section 30(a) of the Bihar Prohibition and Excise Act lodged on 26.10.2025 by the informant, Md. Javed Alam.

3. As per the prosecution story, the Police on secret information, intercepted Apache motorcycle as also *scooty* and there is/are recovery/seizure of 6.120 liters and 17.280 liters of foreign liquor respectively (totalling 23.400). This led to the FIR.

4. Learned counsel for the petitioner submits that he owns the *scooty* which was handed over to a villager, got implicated and the last submission is that he do not have any



criminal antecedent.

5. Further, learned counsel for the petitioner relied on the judgment of the Full Bench of Hon'ble Patna High Court in the case of **Ram Vinay Yadav vs. State of Bihar** reported in **2019 (2) PLJR 1089** wherein it has been held that an application for anticipatory bail in a case arising out of Bihar Excise and Prohibition Act can be maintained, despite the bar under Section 76(2) of the Act, if on the basis of allegation made in the FIR, no offence under the said provision is made out.

6. Learned APP opposes the prayer submitting that being the owner, he cannot exonerate himself from the alleged occurrence.

7. Taking into account the submissions of the parties and the judgment in the case of **Ram Vinay Yadav (supra)**, as also that he do not have any criminal antecedent, in that background, this Court is inclined to extend him the privilege of anticipatory bail with conditions.

8. If, however, it is found that contrary to the statement made in paragraph-3, the petitioner has criminal antecedent, the present order shall become infructuous.

9. Let the petitioner be released on bail in the event of



arrest or surrender within a period of four weeks from the receipt of this order, on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of like amount each to the satisfaction of learned Additional Session Judge cum Exclusive Special Court Excise Act-I, Saran at Chapra/concerned Court in connection with Ekma P.S. Case No. 355 of 2025 subject to the following conditions:

(i) one of the bailor should be the family member/relative of the petitioner who shall provide official document to show his/her bona fide;

(ii) the petitioner shall be appearing before the Police Station as and when required for cooperating in the investigation;

(iii) the petitioner shall appear on each and every date before the Trial Court and failure to do so for two consecutive dates without plausible reason will entail cancellation of his bail bond by the Trial Court itself;

(iv) the petitioner shall appear before the concerned police station every fortnight for six months to mark his attendance and after the end of the period, the certificate shall be submitted before the Trial Court failing which steps shall be taken for the cancellation of the bail bonds;



(v) the petitioner shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of the bail bonds;

(vi) the petitioner shall desist from committing any criminal offence again, failing which the State shall be at liberty to take steps for cancellation of his bail bonds.

(Rajiv Roy, J)

Adnan/-

U		T	
---	--	---	--

