

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.24611 of 2026

Arising Out of PS. Case No.-303 Year-2020 Thana- KOCHADHAMAN District- Kishanganj

Rakesh Kumar @ Rakesh Singh S/O Gopal Singh Resident of Village -
Bankimchandra Chatterjee Road,P.S. - Siliguri, District -Darjeeling W.B

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Ms. Meena Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 17-04-2026 Heard Mr. Raj Kumar, learned counsel for the

petitioner and Ms. Meena Singh, learned Additional Public

Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Kochadhaman P.S. Case No. 303 of 2020, F.I.R dated 17.012.2020 registered for the offences punishable under Section 30(a), 35, 36, 41 of Bihar Prohibition and Excise Act.

3. Recovery is of 846 liters of illegal Indian-made foreign liquor.

4. Learned counsel for the petitioner submits that the petitioner has clean antecedent and has falsely been implicated in the present case. He further submits that the allegation as alleged in the F.I.R is false and fabricated. He further submits that it appears from the F.I.R that nothing has



been recovered from the conscious possession of the petitioner rather the recovery has been made from vehicle in question and petitioner is not the owner of the vehicle in question and name of the petitioner has been transpired on the basis of disclosure made by another driver and except the aforesaid, no other cogent material has come during investigation which suggest the involvement of the petitioner in the present occurrence. There is non-compliance with mandatory procedure prescribed for recovery under Section 103 and 105 of Bhartiya Nagarik Suraksha Sanhita. No case, whatsoever, would be made out against the petitioner under the Bihar Prohibition and Excise Act.

5. The learned Additional Public Prosecutor 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, 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 the learned Exclusive Special Judge (Excise-1), Kishanganj in connection with Kochadhaman P.S. Case No. 303 of 2020, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure / Section 482(2) of the Bhartiya Nagarik Suraksha Sanhita and with other following conditions:-

i. One of the bail shall be close relative of the petitioner.

ii. 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 absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

iii. 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.

iv. 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 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)

Suruchi/-

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

