

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25864 of 2026

Arising Out of PS. Case No.-49 Year-2025 Thana- MAHUAWA District- East Champaran

Kundan Kumar Yadav S/o Om Prakash Yadav R/o Village - Bindwasani
Hanuman Nagar, P.S - Mahuawa, District - East Champaran

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Kundan Rathore Alias Kundan Kumar, Adv.

For the Opposite Party/s : Mrs.Veena Kumari Jaiswal, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

2 22-04-2026 Heard Mr. Kundan Rathore, learned counsel for the
petitioner and the State.

2. The petitioner is apprehending arrest in connection with Mahuawa P.S. Case No. 49 of 2025 instituted under Section 30(a) of the Bihar Prohibition and Excise Amendment Act, 2022 lodged on 21.05.2025 by the informant, Birsa Uraon.

3. As per the prosecution story, the Police intercepted an E-Rickshaw and there is recovery/seizure of 153 liters of Nepali liquor. This led to the FIR.

4. Learned counsel for the petitioner submits that the E-Rickshaw is being owned by him which was handed over to the driver, Raj Kumar Mahto. He had no knowledge about the transportation of the wine. The last submission is that the petitioner do not have 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 counsel for the petitioner further undertakes that he shall not indulge in any criminal activity and if it is found that he is indulged in any criminal activity in future, the State can take steps for cancellation of present bail bond.

7. Learned APP opposes the prayer submitting that the he is owner of the vehicle.

8. Taking into account the submissions aforesaid coupled with the fact that he do not have criminal antecedent and the person with liquor already stands apprehended and the judgment in the case of **Ram Vinay Yadav (supra)**, as also that nothing has been recovered from his conscious possession or from the house, in that background, this Court is inclined to



extend him the privilege of anticipatory bail.

9. Let the petitioner be released on bail, in the event of his arrest or surrender before the concerned court 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 the like amount each in connection with Mahuawa P.S. Case No. 49 of 2025 to the satisfaction of learned Exclusive Special Excise Court No.2, East Champaran, Motihari subject to the conditions as laid down under Section 438(2) of the Cr.P.C. as also the other conditions.

(i) one of the bailor should be the family member/relative of the petitioner who shall provide official document (Aadhar Card/Driving License/Voter ID/Pan Card etc.) 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 day for one month and later every fortnight for next six months to mark his attendance and at the end of the period a certificate be submitted before the Trial Court failing which the State shall be at liberty to take steps for cancellation of 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)

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