

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28326 of 2026

Arising Out of PS. Case No.-20 Year-2026 Thana- Vasudevpur District- Munger

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Sawan Kumar @ Sawant Kumar S/o Sanjay Sah R/o Village - Shyampur, P.S
- Basudeopur, Distt.- Munger

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Shashi Saurabh, Advocate

For the Opposite Party/s : Mrs. Dr. Indihar Kumari, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 23-04-2026 Heard Mr. Shashi Saurabh, learned counsel for the

petitioner and Mrs. Dr. Indihar Kumari, learned Additional

Public Prosecutor for the State appeared through the virtual

mode.

2. The petitioner is apprehending his arrest in
connection with Basudeopur P.S. Case No. 20/2026, F.I.R. dated
17.02.2026 for the offences punishable under Section 30(a) of
the Bihar Prohibition and Excise Act.

3. Recovery is of 439.89 liters of illicit foreign
liquor.

4. Learned counsel for the petitioner submits that
the petitioner is innocent and has falsely been implicated in the
present case. He further submits that it appears from the F.I.R. as
well as seizure list that nothing has been recovered from the



conscious possession of the petitioner and the petitioner was not apprehended at the spot. The name of the petitioner has been transpired on the basis of the disclosure made by the co-accused person, namely, Rahul Kumar and except the disclosure made by the co-accused person nothing has come during investigation in the present occurrence against the petitioner to suggest the involvement of the petitioner in the present occurrence. The co-accused persons, namely, Sourav Kumar and Vishal Kumar have been granted privilege of anticipatory bail by this Hon'ble Court vide order dated 17.04.2026 passed in Cr. Misc. No. 23075 of 2026 and 25000 of 2026 respectively. There is non-compliance with mandatory procedure prescribed for recovery under Section 100 of Cr.P.C / Section 103 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. It is further submitted that the petitioner carries three more cases other than the present one



but fairly submits that on the basis of paragraph-3 of the bail application, the petitioner is on bail in all the cases.

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, nothing has been recovered from conscious possession of the petitioner, 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 II, Munger in connection with Basudeopur P.S. Case No. 20/2026, 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. 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.

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 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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