

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31987 of 2026

Arising Out of PS. Case No.-101 Year-2026 Thana- HARLAKHI District- Madhubani

Anil Mahto Son of Ram Chandra Mahto R/o - Rariyahi, Ward No.10, P.S -
Harlakhi, District - Madhubani

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ashok Kumar Alias Ashok Karn, Advocate

For the Opposite Party/s : Mr. Ram Sumiran Rai, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 01-07-2026 Heard Mr. Ashok Kumar Alias Ashok Karn, learned
counsel for the petitioner and Mr. Ram Sumiran Rai, learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Harlakhi P.S. Case No. 101 of 2026, F.I.R dated
14.03.2026 registered for the offences punishable under
Sections 274, 275 and 3(5) of the BNS, 2023 and Section 30(a)
of Bihar Prohibition (Amendment) and Excise Act, 2022.

3. Recovery is of 109 liters of illicit Nepali Wine.

4. Learned counsel for the petitioner submits that
the petitioner is innocent and he 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 rather the recovery of



109 liters of Nepali Wine has been made from the motorcycle in question. He further submits that one Jawahar Lal Prasad was apprehended along with illicit liquor and motorcycle and petitioner has been made accused merely on the ground that he is owner of the said motorcycle. In fact, Jawahar Lal Prasad happens to be cousin brother of the petitioner and he has taken the motorcycle of the petitioner and was apprehended along with illicit liquor. There is non-compliance with mandatory procedure prescribed for recovery under Section 105 of the BNSS. 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. He further submits that the petitioner carries one criminal antecedent other than the present one but fairly submits that he is on bail in the said case.

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, he has been made accused merely on the ground that he is owner of the motorcycle in question and the petitioner has clean antecedent, 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, Madhubani in connection with Harlakhi P.S. Case No. 101 of 2026, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure 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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