

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.30323 of 2026**

Arising Out of PS. Case No.-398 Year-2026 Thana- AHIYAPUR District- Muzaffarpur

Niraj Kumar @ Niraj Kumar Ray S/o Avadhesh Ray R/o Village - Khalikpur  
Jhapaha, PS - Ahiyapur (Garaha O.P), District - Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr. Yugal Kishore, Advocate

For the Opposite Party/s : Mr. Abhay Kumar, APP

**CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA**  
**ORAL ORDER**

2      01-07-2026                      Heard Mr. Mr. Yugal Kishore, learned counsel for  
the petitioner and Mr. Abhay Kumar, learned Additional Public  
Prosecutor for the State.

2. The petitioner is apprehending his arrest connection  
with Ahiyapur P.S. Case No. 398 of 2026, F.I.R. dated  
24.02.2026 registered for the offences punishable under  
Sections 30(a), 41 of the Bihar Prohibition & Excise Act, 2022  
(Amended).

3. Recovery is of 857.52 liters of illicit liquor.

4. Learned counsel for the petitioner submits that the  
petitioner has clean antecedent and he has falsely been  
implicated in the present case. It appears from the F.I.R. that  
altogether 857.52 litres of illicit liquor was recovered from the  
vehicles in question and the name of the petitioner has been



transpired on the basis of disclosure made by apprehended co-accused person, namely, Dipak Kumar and except the aforesaid, no other cogent material has come during investigation to suggest the involvement of the petitioner in the present occurrence. He further submits that similarly situated co-accused person, namely, Niraj Kumar has been granted bail by this Court today i.e. on 01.07.2026 passed in Cr. Misc. No. 29826 of 2026. Therefore, the recovery cannot be attributed to the petitioner. There is non-compliance with mandatory procedure prescribed for recovery under Section 100 of Cr. P.C./ Section 103 of BNSS, 2023 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 and the fact that the petitioner having clean antecedent and nothing has been recovered from conscious possession of the petitioner or the house of the petitioner and the petitioner has been made accused on the basis of disclosure made by apprehended co-accused person, 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 learned Exclusive Special Judge, Excise Court No. I, Muzaffarpur in connection with Ahiyapur PS. Case No. 398 of 2026, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure/Section 482(2) of BNSS, 2023 and with other following conditions:-

1. 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.

2. 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.

3. 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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