

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34679 of 2026

Arising Out of PS. Case No.-35 Year-2026 Thana- Excise Jhanjharpur District- Madhubani

Mahesh Kumar Mahto @ bhula @ Mahesh Mahto Son of Lalo Mahto
Resident of - Daia Khaorwar, Ward no. 01, P.S.- Lakhnaur, District-
Madhubani, Bihar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sumit Kumar Jha
For the Opposite Party/s : Mr. Kalyan Shankar

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 01-07-2026 Heard Mr. Sumit Kumar Jha, learned counsel for
the petitioner and Mr. Kalyan Shankar, learned Additional
Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Jhanjharpur P.S. Case No. 35 of 2026 registered
for the offences punishable under Sections 30(a), 32(1) and
32(3) of the Bihar Prohibition and Excise Act.

3. The case of the prosecution in brief is that there
is an allegation of recovery of 108 liters of nepali liquor from
the vehicle in question.

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 and seizure list that nothing has been recovered from the conscious possession of the petitioner rather the recovery has been made from the vehicle and altogether 108 liters of nepali liquor was recovered from the vehicle in question. It is next submitted that petitioner has been made an accused in the present case merely on the ground that petitioner is owner of the vehicle in question. It is next submitted that petitioner was not apprehended at the place of occurrence and he has no concern at all with the alleged recovery of liquor.

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, nothing has been recovered from conscious possession of the petitioner 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 Special Judge (Excise Act) Court Jhanjharpur in connection with Jhanjharpur P.S. Case No. 35 of 2026, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure 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)

Gaurav Sinha/-

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