

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32606 of 2026

Arising Out of PS. Case No.-510 Year-2018 Thana- RAJAON District- Banka

Diwana Kumar @ Madhusudan Kumar S/o Kamdev Yadav R/o Vill. - Thatha,
P.S. - Mansi, Dist. - Khagaria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shubhesh Pandey, Advocate

For the Opposite Party/s : Mr. Md. Iftekhar Mahmood, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 01-07-2026 Heard Mr. Shubhesh Pandey, learned counsel for the
petitioner and Mr. Md. Iftekhar Mahmood, learned Additional
Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Rajoun P.S. Case No. 510 of 2018, F.I.R dated 25.12.2018 registered for the offences punishable under Section 30(a) and 32(2) of Bihar Prohibition and Excise Act.

3. Recovery is of 160 liters of illicit country made liquor.

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 that nothing has



been recovered from the conscious possession of the petitioner rather the recovery of 160 liters of illicit liquor has been made from the vehicle in question and one Ankit Kumar was apprehended along with the liquor and he has disclosed that petitioner was also involved in the present crime in question. He further submits that the except the disclosure made by the co-accused person Ankit Kumar, nothing has come during investigation which suggest the involvement of the petitioner in the present occurrence. 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, nothing has been recovered from conscious possession of the petitioner, the petitioner has clean antecedent and the petitioner is made accused merely on the basis of disclosure made by the 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 the learned Special Judge Excise Court-2, Banka in connection with Rajoun P.S. Case No. 510 of 2018, 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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