

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38041 of 2026

Arising Out of PS. Case No.-56 Year-2026 Thana- SARAI District- Vaishali

Nikesh Kumar Son of Dasharath Singh Resident of Village- Subhai Chauk
Patedha/ Jahangirpur Patera, P.S.- Sarai, District- Vaishali at Hajipur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Hemant Kumar, Advocate

For the Opposite Party/s : Mr.Braj Kishore Pd., APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 02-07-2026 Heard Mr.Hemant Kumar, learned counsel for the

petitioner and Mr.Braj Kishore Pd., learned Additional Public

Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Sarai P.S.Case No.56 of 2026,FIR dated
26.02.2026 registered for the offences punishable under
Sections 30(a),32,33,34,36,41 of Bihar Prohibition and Excise
Act.

3. Recovery is of 2550.125 liters of Indian made
foreign liquor.

4. Learned counsel for the petitioner submits that the
petitioner has clean antecedent. From a bare perusal of the FIR
as well as the seizure list it appears that altogether 2550.125
liters of Indian made foreign liquor was recovered from the



place of occurrence. Name of the petitioner has been transpired during investigation on the basis of the disclosure made by the apprehended co-accused person, namely, Vicky Kumar. It appears from the FIR as well as the seizure list that nothing has been recovered from conscious possession of the petitioner and except the confessional statement of co-accused person, nothing has come during investigation against the petitioner to suggest the involvement of the petitioner in the present occurrence. 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. Learned A.P.P. for the State has vehemently opposed the prayer for 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) PLJR 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, petitioner has clean antecedent, nothing has been recovered from conscious possession of the petitioner and name of the petitioner has been transpired during investigation on the basis of the 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 Prohibition and Excise Court(II)-cum-District and Additional Sessions Court Judge, Hajipur, Vaishali in connection with Sarai P.S.Case No.56 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:-

(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/her absence on two consecutive dates without sufficient



reason, his/her 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/her 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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