

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38840 of 2026

Arising Out of PS. Case No.-88 Year-2026 Thana- KOCHADHAMAN District- Kishanganj

KAJAL DEVI Wife of Late Pappu Kumar Singh Resident of Village- Bari Yusufpur, Hazipur, Ward No. 38, P.S.- Industrial Area (Audyogik Keshetra), District- Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Ms.Asha Kumari, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 02-07-2026 Heard Mr.Mritunjay Kumar, learned counsel for the petitioner and Ms.Asha Kumari, learned Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Kochadhaman P.S.Case No.88 of 2026,FIR dated 16.02.2026 registered for the offences punishable under Section 30(a) of Bihar Prohibition and Excise Amendment Act, 2022.

3. Recovery is of 404.00 liters of illegal Indian made foreign liquor.

4. Learned counsel for the petitioner submits that the petitioner has clean antecedent. The allegation as alleged in the FIR is false and fabricated. In fact nothing has been recovered



from conscious possession of the petitioner rather the recovery has been made from the vehicle in question and petitioner has been made accused in the present case merely on the ground that he is owner of the vehicle in question. In fact his son namely, Harsh Raj was apprehended alongwith vehicle in question and vehicle in question is registered in the name of the petitioner so the petitioner has been made accused in the present case. 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 petitioners 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, he has been made accused in the present case merely on the ground that he is owner of the vehicle in question and his son was apprehended alongwith illicit liquor and the vehicle in question, 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-1, Kishanganj in connection with Kochadhaman P.S.Case No.88 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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