

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.39534 of 2026

Arising Out of PS. Case No.-129 Year-2026 Thana- MALSALAMI District- Patna

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Kallu Kumar S/O Rambabu Ray @ Ram Babu Rai R/O Village- Rikabganj,
P.S- Malsalami, District- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Jay Ram Prasad, Advocate

For the State : Mr. Anil Kumar, A.P.P

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 02-07-2026 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Malsalami P.S. Case No. 129 of 2026 registered for the offence punishable under Section 30(a) of Bihar Prohibition and Excise Act.

3. Recovery is of total 157 liters of country made liquor.

4. Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the present case. 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 has been made from the hut in question. It is next submitted that altogether 157 liters of country made liquor



was recovered from two places and the petitioner has no role at all with the alleged occurrence. Learned counsel for the petitioner next submits that name of the petitioner has transpired in the present case on the basis of disclosure made by apprehended co-accused person, namely, Amit Kumar and co-accused person, namely, Binda Lal whose name has also been transpired on the basis of disclosure made by apprehended co-accused person, has been granted the privilege of anticipatory bail vide order dated 29.04.2026 passed in Cr. Misc. No. 27572 of 2026 passed by a Coordinate Bench of this Court.

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. Apart from that the petitioner has antecedent of one case other than the present case but fairly submits that petitioner is on bail in the pending matter.

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, petitioner has been made an accused in this case merely on the basis of disclosure made by apprehended co-accused person, namely, Amit Kumar and similarly situated co-accused person has been granted the privilege of anticipatory bail by a Coordinate Bench of this Court, 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, Patna in connection with Malsalami P.S. Case No. 129 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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