

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.43675 of 2026

Arising Out of PS. Case No.-6 Year-2021 Thana- ITARHI District- Buxar

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Guddu @ Shyam Bihari Gupta S/o Lutawan Gupta R/o Vill- Nonar, P.S.-
Ramgadh, Distt- Kaimur (Bhabhua), State- Bihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Navin Kumar Singh, Advocate

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

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 09-07-2026 Heard Mr.Navin Kumar Singh, 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 Itarhi P.S.Case No.06 of 2021,FIR dated 06.01.2021 registered for the offences punishable under Sections 30(a),30(D) & 30(E) of Bihar Prohibition and Excise Act and Sections 420,467,468,474,120(B) of IPC.

3. Recovery is of 270 liters of illicit Spirit.

4. Learned counsel for the petitioner submits that the petitioner has clean antecedent. He has falsely been implicated in the present case. From a bare perusal of the FIR it appears that the petitioner was not present at the place of occurrence. The recovery has been made from the Car in question. Name of



the petitioner has been transpired during investigation on the basis of the confessional statement of co-accused person, namely, Ritesh Gupta @ Babli and except the aforesaid, 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, name of the petitioner has been transpired during investigation on the basis of the disclosure made by the apprehended co-accused person and nothing has been recovered from conscious possession of the petitioner, 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 Special Excise Court No.1, Buxar in connection with Itarhi P.S.Case No.06 of 2021, 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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