IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.77058 of 2026

CNR No. BRHC011095832026

Arising Out of PS. Case No.-472 Year-2026 Thana- BABUBARHI District- Madhubani

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Shankar Mahto @ Shankar Kumar Singh Raj Kumar Mahto Resident of Village- Bardahi, P.S. Babubarhi, District- Madhubani

... ... Petitioner/s

Versus

The State of Bihar

... ... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr. Abhijit Kunal, Advocate
For the Opposite Party/s : Mr. Md. Iftekhar Mahmood, APP

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

2 05-11-2026 Heard Mr. Abhijit Kunal, learned counsel for the petitioner and the State.

2. The petitioner is apprehending his arrest in connection with Babubarhi P.S. Case No. 472 of 2026 for the offences under sections 30(a), 41 of the Bihar Prohibition and Excise Act lodged on 29.08.2026 by the informant, Dilip Saday.

3. As per the prosecution story, the Police intercepted a four wheeler and there is recovery/seizure of 216 litres country made liquor. This led to the FIR.

4. Learned counsel for the petitioner submits that admittedly the recovery/seizure is from the four wheeler and he is not the owner of it. Only allegation is that the Police got secret information that he is unloading the liquor near his house. The

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petitioner do not have criminal antecedent. The last submission is that without accepting the allegation and/or the outcome of the present case, he intends to contribute Rs.15,000/- to the District Legal Services Authority, Madhubani for the installation of Water Purifier in the Civil Court Campus of Madhubani Judgeship (to be installed for the litigants in the public place/verandah) through Demand Draft issued by the local branch of the State Bank of India.

5. Further, learned counsel for the petitioner relied on the judgment of the Full Bench of Hon'ble Patna High Court in the case of **Ram Vinay Yadav vs. State of Bihar** reported in **2019 (2) PLJR 1089** wherein it has been held that an application for anticipatory bail in a case arising out of Bihar Excise and Prohibition Act can be maintained, despite the bar under Section 76(2) of the Act, if on the basis of allegation made in the FIR, no offence under the said provision is made out.

6. Learned APP opposes the prayer submitting that the unloading was taking place near his house.

7. Taking into account the submissions of the parties and the judgment in the case of **Ram Vinay Yadav (supra)**, as also that though the unloading was near his place, nothing has been recovered from his conscious possession nor the vehicle belongs to him and he do not have criminal antecedent, in that

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background, this Court is inclined to extend him the privilege of anticipatory bail with conditions subject to payment of Rs. 15,000/- to the District Legal Services Authority, Madhubani for the installation of Water Purifier in the Civil Court Campus of Madhubani Judgeship (to be installed for the litigants in the public place/verandah) through Demand Draft issued by the local branch of the State Bank of India and the receipt has to be submitted to the Trial Court by the DLSA, Madhubani.

8. If, however, it is found that contrary to the statement made in paragraph-3, the petitioner has criminal antecedent, the present order shall become infructuous.

9. Let the petitioner be released on bail in the event of arrest or surrender within a period of four weeks from the receipt of this order, on furnishing bail bond of Rs. 10,000/-(Ten thousand) with two sureties of like amount each to the satisfaction of learned Exclusive Special Judge, Excise Court 1st, Madhubani in connection with Babubarhi P.S. Case No. 472 of 2026 subject to the following conditions:

(i) one of the bailor should be the family member/relative of the petitioner who shall provide official document to show his/her bona fide;

(ii) the petitioner shall be appearing before the Police Station as and when required for cooperating in the investigation;

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(iii) the petitioner shall appear on each and every date before the Trial Court and failure to do so for two consecutive dates without plausible reason will entail cancellation of his bail bond by the Trial Court itself;

(iv) the petitioner shall appear before the concerned police station every fortnight for six months to mark his attendance and after the end of the period, the certificate shall be submitted before the Trial Court failing which steps shall be taken for the cancellation of the bail bonds;

(v) the petitioner shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of the bail bonds;

(vi) the petitioner shall desist from committing any criminal offence again, failing which the State shall be at liberty to take steps for cancellation of his bail bonds.

10. Let a copy of the order be sent to the learned Principal District and Sessions Judge Madhubani for his/her perusal and needful.

(Rajiv Roy, J)

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