IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.78903 of 2026

CNR No. BRHC011138392026

Arising Out of PS. Case No.-149 Year-2026 Thana- BASANHI District- Saharsa

==========

Prayag Kumar S/o Gulab Mehta R/o Village - Punchlakh, Ward No. 5, P.S - Basnahi, District - Saharsa

... ... Petitioner/s

Versus

The State of Bihar

... ... Opposite Party/s

==========

Appearance :
For the Petitioner/s : Mr. Chandeshwar Prasad, Advocate
Mr. Pankaj Kumar Singh, Advocate
For the Opposite Party/s : Mr. Bishweshwar Ram, APP

==========

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

2 25-11-2026 Heard Mr. Chandeshwar Prasad, learned counsel for the petitioner and the State.

2. The petitioner is apprehending his arrest in connection with Basnahi P.S. Case No. 149 of 2026 for the offences under sections 30(a) of the Bihar Prohibition and Excise Act lodged on 29.07.2026 by the informant, Dharmendra Kumar.

3. As per the prosecution story, the informant alleged that on secret information, the police reached near the Shiv Temple and on search of the ditches near the said temple, altogether 87 liters foreign liquor recovered/seized. This led to the FIR.

WEB COPY

4. Learned counsel for the petitioner submits that only because of criminal antecedent, he has been implicated. A perusal of the FIR would show that the recovery/seizure is from the ditches near the temple and not from his conscious possession.

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.

7. Taking into account the submissions of the parties and the judgment in the case of **Ram Vinay Yadav (supra)**, as also that nothing has been recovered from his conscious possession, rather from the ditches near the temple, in that background, this Court is inclined to extend him the privilege of anticipatory bail with conditions.

8. Let the petitioner be released on bail in the event of

WEB COPY

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 (Excise)-II, Saharsa in connection with Basnahi P.S. Case No. 149 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;

(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

WEB COPY

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.

(Rajiv Roy, J)

munindra/-

U		T	

WEB COPY