

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.1385 of 2020**

Arising Out of PS. Case No.-825 Year-2019 Thana- TURKAULIYA District- East  
Champaran

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1. Nageshwar Rai Son of Satyanarayan Rai
  2. Chandrakishore Rai @ Chandra Kishore Yadav S/o - Late Pravesh Rai

Both resident of Village- Chiutahi, Gagalwa Tola, P.S.- Turkauliya,  
Distt- East Champaran

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

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**Appearance :**

For the Petitioner/s : Mr.Umesh Chandra Verma  
For the Opposite Party/s : Mr.Mukesh Kumar Singh

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**CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR  
SRIVASTAVA**

ORAL ORDER

2      27-02-2020                      Heard learned counsel for the petitioners as well as  
learned Additional Public Prosecutor for the State.

Petitioners apprehend their arrest in connection with  
Turkauliya P.S. Case No. 825 of 2019 registered for the offences  
punishable under Sections 272, 273, 34 of the Indian Penal  
Code and 30(a) of Bihar Prohibition and Excise Act.

The alleged recovery of liquor was made from a  
bush but informant claimed that local people as well as  
passersby had disclosed before him that seized liquor had been  
kept by the petitioners and one other and furthermore, informant  
claimed that he had seen the petitioners fleeing from the place



of occurrence.

Submission on behalf of the petitioners is that admittedly, the recovery has been made from a bush and not from possession of the petitioners. He further submits that even if it assumed that petitioners were seen fleeing away from the place of occurrence, then also, it does not constitute offence of Excise Act.

Although, petition under Section 438 of the Cr.P.C. is barred under Section 76(2) of Bihar Prohibition and Excise Act but in the present case, prima facie no case of Excise Act is being made out against the petitioners.

Considering the aforesaid facts and circumstances as well as submissions of the parties, this anticipatory bail petition is allowed and it is ordered that petitioners, in the event of their arrest/ surrender within six weeks from the date of receipt of this order to the court concerned, shall be released on bail on furnishing bail bonds of Rs 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of learned 9<sup>th</sup> Additional Sessions Judge cum Special Judge, Excise, Motihari, East Champaran in Turkauliya P.S. Case No. 825 of 2019, subject to conditions as laid down under Section 438(2) of the Cr.P.C.



However, the observation given in this order is only for the purpose of consideration of bail and the observation given in this order shall not affect the trial and merit of case of the petitioners.

**(Hemant Kumar Srivastava, J)**

shahzad/-

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