

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.61825 of 2022**

Arising Out of PS. Case No.-332 Year-2022 Thana- PAROO District- Muzaffarpur

1. Suraj Yadav @ Suraj Kumar S/o Naval Kishor Ray R/o ward No- 7 Amawa Bare, P.S.- Mehshi, District- East Champaran
2. Vikash Kumar S/o Baban Ray R/o Amava, P.S.- Kothia, District- East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr. Sumit Shekhar Pandey, Advocate

For the Opposite Party/s : Mr. Rajendra Singh, APP

**CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA**  
**ORAL ORDER**

2      02-12-2022      Heard learned counsel for the petitioners and learned Additional Public Prosecutor for the State in the Virtual Court proceeding.

The petitioners are apprehending their arrest in a case registered for the offences punishable under Sections 420, 467, 468, 471, 120B of the Indian Penal Code, Sections 25(1-B)a/35 of the Arsm Act and Section 30(a)/31/32/41(a) of the Bihar Prohibition and Excise Amendment Act, 2018.

Recovery is of 2141.46 litres of foreign liquor.

Learned counsel for the petitioners submits that the petitioners have clean antecedents and have falsely been implicated in the present case. He further submits that the



recovery has been made from the vehicle in question and not from petitioners' possession. He further submits that the petitioners are neither the owner nor the driver of the vehicle in question and the name of the petitioners have been transpired only on the basis of suspicion and except suspicion, no cogent material has come during investigation against the petitioners and the petitioners have no concern at all with the alleged recovery or the vehicle in question. Therefore, the recovery cannot be attributed to the petitioners. There is non-compliance with mandatory procedure prescribed for recovery under Section 100 of Cr. P.C. No case, whatsoever, would be made out against the petitioners under the Bihar Prohibition and Excise Act.

The learned Additional Public Prosecutor has vehemently opposed the prayer for anticipatory bail of the petitioners 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.

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 petitioners.

Considering the aforesaid facts, nothing has been recovered from the conscious possession of the petitioners and his name has been transpired only on the basis of suspicion and the petitioners have clean antecedents, let the petitioners, above named, in the event of their 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) each with two sureties of the like amount each to the satisfaction of the learned Court below where the case is pending in connection with Paroo PS. Case No. 332 of 2022, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure and with other following conditions:-

1. Petitioners 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 their absence on two consecutive dates without sufficient reason, their bail bonds shall be cancelled by the Court below.

2. If the petitioners tamper 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 antecedents of the petitioners and in case at any stage it is found that the petitioners have concealed their criminal antecedents, the court below shall take step for cancellation of bail bond of the petitioners. 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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