

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2744 of 2025

Arising Out of PS. Case No.-101 Year-2023 Thana- OBRA District- Aurangabad

1. Pramod Yadav S/o Laldev Yadav c
2. Kamlesh Yadav S/o Gobardhan Yadav R/o vill - Ganghara (Deochadra Bhagat Ka Tola), P.s. - Shahpur, Distt.- Patna
3. Gopal Yadav S/o Shivnarayan Yadav R/o vill - Ganghara (Deochadra Bhagat Ka Tola), P.s. - Shahpur, Distt.- Patna
4. Mantosh Paswan S/o Rajendra Paswan R/o vill - Ganghara (Deochadra Bhagat Ka Tola), P.s. - Shahpur, Distt.- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rupa Kumari, Adv.
For the Opposite Party/s : Mr. Pronoti Singh, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 28-02-2025 Heard learned counsel for the petitioners and learned Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in a case in connection with Orba P.S. Case No. 101 of 2023 dated 01.03.2023 registered for the offences punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 175 litres of illicit country-made liquor was recovered from the paddy field near the bank of the Sone River.

4. Learned counsel for the petitioners have submitted that the petitioners are innocent and have falsely been implicated in this case. No incriminating material has been



recovered from the conscious possession of the petitioners. The name of the petitioners has transpired in this case merely on suspicion. The petitioners have no concern with the alleged recovery rather the recovery has been made from an open place that was accessible to anyone. The petitioner nos. 1 and 3 have no criminal antecedent, the petitioner no.2 has four criminal antecedents and the petitioner no.4 has one criminal antecedent as stated in para 3 of the bail petition. The co-accused persons have been granted bail by this Court vide order dated 16.04.2024 passed in Cr. Misc. No. 26100 of 2024. Learned counsel has submitted that no case is made out against the petitioners. Learned Counsel has relied on the judgment of Full Bench of Hon'ble Patna High Court in the case of **Ram Vinay Yadav vs. State of Bihar 2019 (2) PLJR 1089**. The Full Bench in the case of **Ram Vinay Yadav (supra)** has 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.

5. Learned A.P.P. for the State has vehemently opposed the prayer for anticipatory bail of the petitioners by



submitting that the bar of Section 76(2) of the Act applies in this case.

6. Considering the aforesaid facts and circumstances of the case as well as the material available on record, let the above named petitioners, in the event of their arrest/surrender within a period of six weeks from today, be enlarged on anticipatory bail on furnishing bail-bond of Rs. 20,000/- (Rupees twenty thousand) each with two sureties of the like amount each to the satisfaction of the learned court concerned, Aurangabad, Bihar in connection with Obra P.S. Case No. 101 of 2023, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure, with the condition:-

(i) The petitioner no.2 (Kamlesh Yadav) is directed to remain physically present before the learned Court below on each and every date, failing which on two consecutive dates without reasonable cause, the bail bonds of the petitioner no.2 are liable to be cancelled.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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