

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3557 of 2025

Arising Out of PS. Case No.-367 Year-2024 Thana- PATEPUR District- Vaishali

-
1. Raja Paswan @ Raja Kumar S/o Birchandra Paswan R/o Vill.- Kashturi Sarai, P.S.- Harilochanpur, Dist.- Vaishali
 2. Bikram Paswan @ Bikram Kumar S/o Baleshwar Paswan R/o Vill.- Kashturi Sarai, P.S.- Harilochanpur, Dist.- Vaishali
 3. Nagina Devi W/o Birchandra Paswan R/o Vill.- Kashturi Sarai, P.S.- Harilochanpur, Dist.- Vaishali
 4. Ranjan Paswan @ Ranjan Kumar @ Rajan Paswan S/o Birchandra Paswan R/o Vill.- Kashturi Sarai, P.S.- Harilochanpur, Dist.- Vaishali
 5. Birchandra Paswan S/o Shaukhi Paswan R/o Vill.- Kashturi Sarai, P.S.- Harilochanpur, Dist.- Vaishali

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Dilip Kumar Singh, Advocate
For the Opposite Party/s : Mr. Ganesh Prasad Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 12-02-2025 Heard Mr. Dilip Kumar Singh, learned counsel for

the petitioners and Mr. Ganesh Prasad Singh, learned Additional

Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in connection with Patepur (Harlochanpur) P.S. Case No. 367 of 2024, F.I.R. dated 27.11.2024 for the offences punishable under Sections 724 and 275 of the Bhartiya Nyaya Sanhita, 2023 and Section 30(a) of Bihar Prohibition and Excise Amendment Act, 2018 & 2022.



3. Recovery is of 18 liters of country made wine.

4. Learned counsel for the petitioners submits that the petitioner nos. 1 to 4 have clean antecedent and petitioner no. 5 carries one criminal antecedent other than the present one and they have falsely been implicated in the present case. He further submits that as per the allegation in the F.I.R, altogether 180 liters of country made wine has been recovered from the house of the petitioner no. 5. He further submits that the petitioner nos. 1 to 4 have been made accused in the present case only on the ground that they are family members of the petitioner no. 5. There is non-compliance with mandatory procedure prescribed for recovery under Section 100 of Cr.P.C / Section 103 of Bhartiya Nagarik Suraksha Sanhita. No case, whatsoever, would be made out against the petitioners under the Bihar Prohibition and Excise Act.

5. 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. He further submits that the petitioner no. 5 carries one criminal antecedent other than the present one but fairly submits on the basis of paragraph



3 of the bail petition that he is on bail in the pending matter.

6. 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.

7. Considering the aforesaid facts that nothing has been recovered from conscious possession of the petitioners and the petitioner nos. 1 to 4 have clean antecedent, 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 Exclusive Excise Court-II-cum-Additional District & Sessions Judge, Vaishali at Hajipur in connection with Patepur (Harlochanpur) P.S. Case No. 367 of 2024, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure / Section 482(2) of the Bhartiya Nagarik Suraksha Sanhita and with other following conditions:-



i. 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 bond shall be cancelled by the Court below.

ii. If the petitioners tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

iii. And further condition that the court below shall verify the criminal antecedent of the petitioners and in case at any stage it is found that the petitioners have concealed their criminal antecedent, 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)

Vanisha/-

U		T	
---	--	---	--

