

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5693 of 2025

Arising Out of PS. Case No.-395 Year-2024 Thana- SAMASTIPUR MUFFASIL District-
Samastipur

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1. Shobha Paswan @ Shri Shobha Paswan S/o Upendra Paswan R/o Village-
Bhusari, P.S.- Mufassil, District- Samastipur
 2. Bhola Paswan @ Shri Bhola Paswan @ Bhola Path S/o Upendra Paswan R/o
Village- Bhusari, P.S.- Mufassil, District- Samastipur

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Anant Kumar Mishra, Advocate

For the Opposite Party/s : Mr. Kumar Veerendra Narayan, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 15-02-2025 Heard Mr. Anant Kumar Mishra, the learned

counsel for the petitioners and Mr. Kumar Veerendra Narayan,

the learned Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in

connection with Samastipur Mufassil PS Case No. 395 of 2024,

FIR dated 26.09.2024, registered for the offences punishable

under Sections 126(2), 115(2), 135 and 3(5) of the B.N.S., 2023

and under Section 30(a) of the Bihar Prohibition and Excise Act.

3. Recovery is of 1.620 litres of foreign liquor.

4. Learned counsel for the petitioners submits that

petitioners have clean antecedent and they have falsely been

implicated in the present case. He further submits that according



to the FIR and seizure list, 1.620 litres of foreign liquor was recovered from the shop of co-accused person namely, Raushan Kumar and the petitioners and other co-accused persons were trying to release the co-accused Raushan Kumar from the police. He further submits that although petitioners are named in the FIR, but there is no specific allegation against the petitioners in the FIR and names of petitioners transpired merely on the basis of suspicion. There is non-compliance with mandatory procedure prescribed for recovery under Section 100 of Cr.P.C. / Section 103 of BNSS, 2023. No case, whatsoever, would be made out against the petitioners under the Bihar Prohibition and Excise Act.

5. The learned Additional Public Prosecutor for the State on the other hand 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.

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 and circumstances and mainly the facts that petitioners have clean antecedent and nothing has been recovered from conscious possession of the petitioners, let the petitioners, above-named, in the event of their arrest or surrender before the learned trial Court within a period of thirty days from the date of receipt of the order, be released on anticipatory 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 Special Judge, Excise-1, Samastipur, where the case is pending in connection with **Samastipur Mufassil PS Case No. 395 of 2024**, subject to the conditions as laid down under Section 438(2) of the Cr.P.C. / Section 482(2) of the BNSS, 2023 and also the following conditions:-

(i). Petitioners shall co-operate in the trial and shall be properly represented on each and every date fixed by the learned trial Court and shall remain physically present as directed by the learned trial Court and on their absence on two consecutive dates without sufficient reason, their bail bond shall



be cancelled by the learned trial Court.

(ii). 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.

(iii). And further condition that the learned trial Court 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 learned trial Court 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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