

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5630 of 2025

Arising Out of PS. Case No.-241 Year-2024 Thana- CHANPATIA District- West Champaran

1. Awadh Patel Son of Bachcha Patel Resident of village- Puraina Gosai, Ward NO. 09, P.S.- Chanpatiya, Distt.- West Champaran
2. Dharmendra Patel Son of Sri Rajendra Patel Resident of village- Puraina Gosai, Ward NO. 09, P.S.- Chanpatiya, Distt.- West Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sharad Kumar Verma, Advocate

For the Opposite Party/s : Mr. Parmanand Prasad, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 15-02-2025 Heard Mr. Sharad Kumar Verma, learned counsel
for the petitioners and Mr. Parmanand Prasad, learned
Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in connection with Chanpatiya P.S. Case No. 241 of 2024, F.I.R dated 12.12.2024 registered for the offences punishable under Sections, 274 and 275 of the Bharatiya Nyaya Sanhita, 2023 and Section 30(a) of Bihar Prohibition and Excise Act.

3. Recovery is of 152.250 liters of country made brewed liquor.

4. Learned counsel for the petitioners submits that the petitioners have clean antecedent and they have falsely been



implicated in the present case. He further submits that the allegation as alleged in the F.I.R is false and fabricated and the petitioners have not committed any offence as alleged in the FIR. He further submits that it appears from the FIR that the name of the petitioners have been transpired on the basis of the disclosure made by the local chaukidar. He further submits that it appears from the F.I.R that nothing has been recovered from the conscious possession of the petitioners. There is non-compliance with mandatory procedure prescribed for recovery under Section 100 of Cr.P.C./Section 103 of B.N.S.S, 2023. No case, whatsoever, would be made out against the petitioners under the Bihar Prohibition and Excise Act.

5. 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.

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, nothing has been recovered from conscious possession of the petitioners, the petitioners have clean antecedent and the name of the petitioners have been transpired in this case on the basis of the disclosure made by the local chaukidar, 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 bonds 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, West Champaran at Bettiah in connection with Chanpatiya P.S. Case No. 241 of 2024, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure/Section 482(2) of B.N.S.S., 2023 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 bonds shall be cancelled by the Court below.



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 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)

ajay/-

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

