

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5618 of 2025

Arising Out of PS. Case No.-231 Year-2024 Thana- BUXAR MUFFSIL District- Buxar

1. Ravi Kumar Dubey @ Ravi Dubey S/o- Santosh Kumar Dubey
2. Amit Kumar Dubey @ Sanni Dubey S/o- Santosh Kumar Dubey.
Both Residents of Village- Dasiyaw PS-Nawanagar District- Buxar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Satyapal Singh, Advocate
For the Opposite Party/s : Ms.Gulnar Begum, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 15-02-2025 Heard Mr.Satyapal Sing learned counsel for the
petitioners and Ms.Gulnar Begum, learned Additional Public
Prosecutor for the State.

2. The petitioners are apprehending their arrest in connection with Buxar Muffasil P.S. Case No.231 of 2024,FIR dated 29.07.2024 registered for the offences punishable under Section 30(a) of Bihar Prohibition and Excise (Amendment) Act, 2022 read with Sections 25(1-b)a/26/35 of Arms Act.

3. Recovery is one black colour of counter made pistol and seven bottles of foreign liquor each 180 ML.

4. Learned counsel for the petitioners submits that the petitioners have clean antecedent and they have falsely been implicated in the present case on the basis of the disclosure



made by the apprehended co-accused person, namely, Shiv Mourya. It appears from the FIR as well as the seizure list that nothing has been recovered from conscious possession of the petitioners rather the recovery has been made from the house of co-accused Shiv Mourya and due to ulterior motive the petitioners have falsely been implicated in the present case. 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.

5. Learned A.P.P. for the State has vehemently opposed the prayer for 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) PLJR 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, petitioners have clean antecedent and nothing has been recovered from conscious possession of the petitioners rather the recovery has been made from the apprehended co-accused person, 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 learned Exclusive Special Judge, Excise-I, Buxar in connection with Buxar Muffasil P.S. Case No.231 of 2024, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure 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 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)

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