

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.6973 of 2025

Arising Out of PS. Case No.-149 Year-2024 Thana- MAHARAJGANJ District- Siwan

1. Rajiv Chaudhary S/O Manager Chaudhary Resident of Village- Ramapali, P.S- Maharajganj, Distt.- Siwan.
2. Guddu Chaudhary S/O Butai Chaudhary Resident of Village- Ramapali, P.S- Maharajganj, Distt.- Siwan.
3. Tinku Chaudhary S/O Butai Chaudhary Resident of Village- Ramapali, P.S- Maharajganj, Distt.- Siwan.
4. Manager Chaudhary S/O Vishwanath Chaudhary Resident of Village- Ramapali, P.S- Maharajganj, Distt.- Siwan.

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Rajiv Kumar, Advocate
For the Opposite Party/s : Mr. Dilip Kumar No. 1, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 02-05-2025 Heard learned counsel for the petitioners and learned Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in connection with ABP No. 2076 of 2024, arising out of Maharajganj P.S. Case No. 149 of 2024, dated 25.04.2024 in a case registered for the offences punishable under Sections 272, 273 and 188 of the Indian Penal Code and under Sections 30(a), 30(c), 30(d), 36, 38 and 47 of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 140 litres of



illicit country made liquor, one old stove, 14 kg gas cylinder, three piece, two old drums, seven gallons and a container were recovered from the house of Guddu Chaudhary and 105 litres of country made liquor, two piece gas cylinder of 14 kg, one stove, one container, one steel drum, thirteen gallons and a mobile phone were recovered from the house of Chandan Chaudhary.

4. Learned counsel for the petitioners has 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, rather the recovery has been made from an under construction house, which is a joint property of petitioners and is also an open place and no one was living in the said house. There was non-compliance of the mandatory procedure prescribed for recovery under Section 103 of the BNSS. The petitioner no. 1 has one criminal antecedent, petitioner nos. 2 and 3 have five criminal antecedents, out of which four antecedents are of similar nature, petitioner no. 4 has two criminal antecedents of similar nature as stated in paragraph no. 3 of the bail petition. The similarly situated co-accused person namely, Ramesh Chaudhary has been granted anticipatory bail by this Court *vide* order dated 04.10.2024 passed in Cr. Misc. No. 58996 of 2024.



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 petitioners, above-named, 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 only) each with two sureties of the like amount each to the satisfaction of the learned Exclusive Special Excise Court No. 1, Siwan, in connection with **Maharajganj P.S. Case No. 149 of 2024**, subject to conditions as laid down under section 438(2) of the Code of



Criminal Procedure, on further condition:

(I) The petitioner nos. 2 and 3 are directed to remain physically present before the learned trial Court on each and every date, failing which on two consecutive dates without reasonable cause, the bail bonds of the petitioner nos. 2 and 3 are liable to be cancelled.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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