

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.6845 of 2025

Arising Out of PS. Case No.-439 Year-2024 Thana- KADAMKUAN District- Patna

1. Abhishek Kumar @ Raja S/O Ashok Kumar Singh R/O Mohalla- Katra, West Lohanipur, P.S.- Kadamkuan, Dist.- Patna
2. Golu Kumar S/O Tuntun Mahto R/O Mohalla- East Lohanipur, Ambedkar Colony, P.S.- Kadamkuan, Dist.- Patna

... .. Petitioner/s

Versus

The State of Bihar Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ravi Nandan

For the Opposite Party/s : Mr.Asha Kumari

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 a case in connection with Kadamkuan P.S. Case No. 439 of 2024 dated 15.06.2024 registered for the offences punishable u/ss 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 1687.950 litres of illicit foreign liquor was recovered from the Godown and another place.

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. It is further submitted that the apprehended person disclosed the name of the petitioners. As per para-7 of the bail petition, the petitioners are not the owner of the said Godown. The petitioners have no concern with the alleged recovery. The petitioners have no criminal antecedent as stated in para 3 of the bail petition. The co-accused has been granted regular bail by this Court vide order dated 11.09.2024 passed in Cr. Misc. No. 54902 of 2024. Learned counsel has submitted that no case is made out against the petitioners. 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 above named petitioners, 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) each with two sureties of the like amount each to the satisfaction of the learned court concerned, Patna in connection with Kadamkuan P.S. Case No. 439 of 2024, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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