

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8707 of 2025

Arising Out of PS. Case No.-183 Year-2024 Thana- KUNDWACHAINPUR District- East
Champaran

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1. Madan Rai @ Madan Prasad Yadav S/o Ram Naresh Yadav R/o Badharwa Fateh Mohammad, P.O.- Badharqa Fathe Mohammad, P.s.- Kundwa Chainpur, Distt.- East Champaran
 2. Kishore Rai @ Kishor Rai S/o Ram Naresh Rai R/o Badharwa Fateh Mohammad, P.O.- Badharqa Fathe Mohammad, P.s- Kundwa Chainpur, Distt.- East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Mohit Raj, Advocate
For the Opposite Party/s : Mr.Akshay Lal Pandit, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 06-03-2025 Heard Mr.Mohit Raj, learned counsel for the

petitioners and Mr. Akshay Lal Pandit, learned Additional

Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in
connection with Kundwa Chaipur P.S.Case No.183 of 2024,FIR
dated 13.11.2024 registered for the offences punishable under
Section 30(a) of Bihar Prohibition and Excise (Amendment)
Act, 2022.

3. Recovery is of 369.600 liters of Nepali liquor.

4. Learned counsel for the petitioners submits that
petitioner No.2 has clean antecedent and petitioner No.1 carries



two more cases other than the present one and they have falsely been implicated in the present case. 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 bamboo orchard and petitioners have no concern at all with the alleged recovery of illicit liquor or the bamboo orchard and name of the petitioners have been transpired during investigation on the basis of disclosure made by local villagers. 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, nothing has been recovered from conscious possession of the petitioners and petitioners have been made accused in the present case merely on the basis of disclosure made by local villagers, 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 Excise Court No.3, East Champaran, Motihari in connection with Kundwa Chaipur P.S.Case No.183 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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