

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8652 of 2025

Arising Out of PS. Case No.-1587 Year-2024 Thana- PHULWARISHARIF District- Patna

1. Budhani Devi @ Gorki W/o Arun Kumar R/o Khagaul Lakh, P.S.- Phulwarisharif, Dist.- Patna
2. Arun Kumar S/o Bindhyanchal Coudhary R/o Khagaul Lakh, P.S.- Phulwarisharif, Dist.- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Binay Kumar Singh, Advocate
For the Opposite Party/s : Mr. Akbar Ali, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 07-03-2025 Heard Mr. Binay Kumar Singh, learned counsel
for the petitioners and Mr. Akbar Ali, learned Additional Public
Prosecutor for the State.

2. The petitioners are apprehending their arrest in connection with Phulwarisharif P.S. Case No. 1587 of 2024, F.I.R dated 16.10.2024 registered for the offences punishable under Section 30(a) of Bihar Prohibition and Excise Act.

3. Recovery is of 7.56 liters of foreign 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 F.I.R. He further submits that it appears from the F.I.R as well as seizure list that nothing has been recovered from the conscious possession of the petitioners rather the recovery has been made from the hut in question. He further submits that the petitioners have no concern at all with the alleged recovery of the illicit liquor or the hut in question and they have been made accused in the present case only on the basis of suspicion. There is non-compliance with mandatory procedure prescribed for recovery under Section 100 of Cr.P.C / Section 103 of Bhartiya Nagarik Suraksha Sanhita. No case, whatsoever, would be made out against the petitioners under the Bihar Prohibition and Excise Act.

5. 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 that nothing has been recovered from conscious possession of the petitioners, they have clean antecedent and their name has been transpired on the basis of suspicion, 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 the learned Special Judge Excise, Patna in connection with Phulwarisharif P.S. Case No. 1587 of 2024, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure / Section 482(2) of the Bhartiya Nagarik Suraksha Sanhita 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 tampers 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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