

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.9602 of 2025**

Arising Out of PS. Case No.-596 Year-2024 Thana- BYPASS District- Patna

1. Sonu Kumar S/o Late Mahesh Mahto R/o Muhalla - Garaiya Asthan, Bahari Begampur, Patna City, P.S.- Bypass, Distt.- Patna
2. Rohit Raj @ Dikki Kumar S/o Late Subhash Mahto R/o Muhalla - Dada Jain Mandir, Bahari Begampur, Patna City, P.S.- Bypass, Distt.- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr. Pramod Kumar, Advocate

For the Opposite Party/s : Ms. Sangeeta Sharma, APP

**CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA**  
**ORAL ORDER**

2      07-03-2025                      Heard Mr. Pramod Kumar, learned counsel for the petitioners and Ms. Sangeeta Sharma, learned Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in connection with P.T.N. 2199/2024 arising out of Baypass P.S. Case No. 596 of 2024, F.I.R. dated 17.12.2024 registered for the offences punishable under Section 30(a) of Bihar Prohibition and Excise Act.

3. Recovery is of 205 liters of mahua liquor.

4. Learned counsel for the petitioners submit that the petitioners are innocent and they have falsely been implicated in the present case on the basis of the disclosure/



confessional statement of the co-accused person, namely, Aman Kumar. 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 possession of the co-accused person, namely, Aman Kumar and except the confessional statement of the co-accused person, no other cogent material has come during the investigation to suggest the involvement of the petitioners in the present occurrence. 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 Additional Public Prosecutor for the State, on the other hand, 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. He further submits that petitioners carry one more case other than the present one but not pertaining to the excise matter but fairly submits on the basis of the paragraph no.3 of the bail petition that the petitioners are on bail in the pending matter.



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, nothing has been recovered from conscious possession of the petitioners and their name have been transpired in this case on the basis of the disclosure made by the 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 the learned Exclusive Special Court, Excise, Patna City in connection with P.T.N. 2199/2024 arising out of Baypass P.S. Case No. 596 of 2024, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure/Section 482(2) of the B.N.S.S., 2023 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 bonds 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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