

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11160 of 2025

Arising Out of PS. Case No.-66 Year-2019 Thana- NADI P.S. District- Patna

1. Subhash Rai @ Subhash Kumar Son of Laldev Ray @ Laldeo Ray Son of Jethuli, Fatuha, Ps- Nadi, Dist- Patna
2. Ajay Rai @ Ajay Yadav Son of Laldev Ray @ Laldeo Ray Son of Jethuli, Fatuha, Ps- Nadi, Dist- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Vikas Kumar Jha, Advocate

For the Opposite Party/s : Mrs. Veena Kumari Jaiswal, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 09-05-2025 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 Nadi P.S. Case No. 66 of 2019 dated 14.03.2019 for the offence/s punishable u/s 30(a) (d) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 385.56 litres of illicit liquor country was recovered from the house of co-accused, namely, Vishwanath Rai.

4. Learned counsel for the petitioners has submitted that the petitioners are innocent and have falsely been implicated in this case. Nothing has been recovered from the conscious possession of the petitioners. The names of the petitioners have been transpired in



this case on the basis of the confessional statement of the apprehended co-accused person, namely, K. Laxman Rai. The petitioners have no concern with the alleged recovery. The co-accused person, namely, Vishwanath Rai has already been granted regular bail by this Court vide order dated 19.06.2024 passed in Cr. Misc. No. 41537 of 2024 and co-accused, namely, Ashok Kumar @ Ashok Yadav has also been granted the privilege of anticipatory bail by a co-ordinate Bench of this Court vide order dated 22.08.2019 passed in Cr. Misc. No. 34436 of 2019. The petitioners have no criminal antecedent as stated in para 3 of the bail petition. Learned counsel has submitted that no case is made out against the petitioners. Learned Counsel has relied on the judgment of Full Bench of the 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 the 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 City in connection with Nadi P.S. Case No. 66 of 2019, 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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