

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16869 of 2025

Arising Out of PS. Case No.-508 Year-2024 Thana- SAUR BAZAR District- Saharsa

1. Banti Kumar @ Banti Yadav S/O Varun Yadav R/O vill- Bhaptiya, ward No.- 7, P.S- Sour Bazar, Dist.- Saharasa
2. Vikash Kumar @ Vikash Kumar Yadav @ Bikash Yadav S/O Varun Yadav R/O vill- Bhaptiya, ward No.- 7, P.S- Sour Bazar, Dist.- Saharasa

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Binod Kumar Sinha, Advocate

For the Opposite Party/s : Mr. Choubey Jawahar, APP

CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH MISHRA

ORAL ORDER

6 04-08-2025 Heard learned counsel for the petitioners and learned APP for the State. Perused the case diary.

2. The petitioners seek bail in connection with Saur Bazar P.S. Case No. 508 of 2024 instituted for the offence under Section 30(a) of the Bihar Prohibition and Excise Amendment Act, 2022.

3. Prosecution case, in short, is that police conducted a raid at the house of one Varun Yadav and on search, there is recovery of 25 liters cough syrup from his house. Petitioners were allegedly fled away from the spot.

4. It has been submitted on behalf of the petitioners that the petitioners are in custody since 14-11-2024. Petitioner No.1 bears seven criminal antecedents, whereas petitioner No.2



bears eleven criminal antecedents, as per disclosure made in paragraph No. 3 of the bail application.

5. It has been further submitted by the petitioners' counsel that petitioners have been falsely implicated in the present case. Learned counsel for the petitioners submits that no recovery of illicit cough syrup was made from the conscious possession of the petitioners. It is next submitted that recovery was made from the joint house of the petitioners, beneath the land and petitioners were not aware of the illicit cough syrup kept in his house. There is no compliance of Section 103 of the BNSS, 2023.

6. Learned A.P.P. for the State has vehemently opposed the prayer for grant of bail to the petitioners. A counter affidavit has been filed by the State and it is contended that charge sheet has been submitted in this case under Section 30(a) of the Bihar Prohibition and Excise Act. Learned APP further submitted that vide gazette notification dated 18.10.2016, the Government of Bihar has notified that all medicines or medical preparations containing (i) Codeine and (ii) Dextropropoxyphene as ingredients be treated to be intoxicants for the purposes of the Bihar Prohibition and Excise Act, 2016.

7. From a perusal of the records, it appears that the



present case has been instituted under Section 30(a) of the Excise Act, and upon completion of investigation, the police have submitted charge sheet under the same provision. Therefore, the provisions of the NDPS Act are neither attracted nor applicable to the present case.

8. Considering the aforesaid facts and circumstances of the case and the period of custody undergone by the petitioners, this Court is inclined to grant bail to the petitioners.

9. Let the petitioners be released on bail, *after framing of charge, if not already framed*, on furnishing bail bonds of Rs.10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of Court below/concerned Court in connection with Saur Bazar P.S. Case No. 508 of 2024, subject to the following conditions:

(I) One of the bailors shall be own/close member of the family of the petitioners.

(II) The petitioners shall appear on each and every date fixed at the trial. In case of default in such appearance on two consecutive dates, the Trial Court will have liberty to cancel the bail bonds of the petitioners.

(Rudra Prakash Mishra, J)

Raj Kishore/-

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