

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.15436 of 2025

Arising Out of PS. Case No.-9 Year-2025 Thana- NOWKOTHI GARHPURA District-
Begusarai

=====

Dinkar Mahto @ Dinkar Kumar S/o Jaykrishna Mahto Resident of Village-
Samsa Goudam Tols, Ward No. 17, P.S- Nawkothi, Distt.- Begusarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

=====

with

CRIMINAL MISCELLANEOUS No. 16485 of 2025

Arising Out of PS. Case No.-9 Year-2025 Thana- NOWKOTHI GARHPURA District-
Begusarai

=====

Niraj Kumar @ Niraj Mahto Son of Ram Udgar Mahto Resident of Bhagwan
Ward No.04, Bagban, P.S. - Bakhri, District - Begusarai, Bihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

=====

Appearance :
(In CRIMINAL MISCELLANEOUS No. 15436 of 2025)
For the Petitioner/s : Mr. Yogesh Chandra Verma, Sr. Advocate
Mr. Rabish Kumar, Advocate
For the Opposite Party/s : Mr. Uma Shankar Prasad Singh, APP
(In CRIMINAL MISCELLANEOUS No. 16485 of 2025)
For the Petitioner/s : Mr. Yogesh Chandra Verma, Sr. Advocate
Mr. Rabish Kumar, Advocate
For the Opposite Party/s : Mr. Tarkeshwar Nath Thakur, APP

=====

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 16-04-2025 Heard Mr. Yogesh Chandra Verma, learned senior

counsel for the petitioners and Mr. Uma Shankar Prasad Singh

in Cr. Misc. No. 15436 of 2025 and Mr. Tarkeshwar Nath

Thakur in Cr. Misc. No. 16485 of 2025, learned Additional

Public Prosecutor for the State.



2. The petitioners are apprehending their arrest in connection with Naokothi P.S. Case No. 09 of 2025, F.I.R dated 13.01.2025 registered for the offences punishable under Section 61(2) of the Bhartiya Nyaya Sanhita, 2023, Sections 30(a), 32 and 41 of Bihar Prohibition and Excise Act, 2018 and Sections 25(1-b)a, 25(1-AA), 26 and 35 of the Arms Act.

3. Recovery is of 207 liters of illicit liquor along with 2 country made pistola and 29 live cartridges.

4. Learned counsel for the petitioners submits that the petitioner, namely, Dinkar Mahto @ Dinkar Kumar has clean antecedent and petitioner, namely, Niraj Kumar @ Niraj Mahto carries 4 criminal antecedents other than the present one and they have falsely been implicated in the present case. He further submits that the petitioners are not named in the F.I.R. and the name of the petitioners have been transpired during investigation on the basis of the confessional statement of the co-accused, namely, Vijay Rajak and except the confessional statement of the co-accused, no other material has come during investigation to suggest the involvement of the petitioners in the present occurrence. He further submits that it appears from the seizure list that the recovery has been made from the co-accused, namely, Vijay Rajak. 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. He further submits that it has come during investigation that the petitioners are involved in the present crime in question and apart from that the petitioner, namely, Niraj Kumar @ Niraj Mahot carries four criminal antecedents other than the presnet one but fairly submits on the basis of paragraph 3 of the bail petition that the petitioner is on bail in all the four cases.

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 and circumstances, 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-I, Begusarai in connection with Naokothi P.S. Case No. 09 of 2025, 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)

Vanisha/-

U		T	
---	--	---	--

