

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13148 of 2025

Arising Out of PS. Case No.-544 Year-2024 Thana- UDWANTNAGAR District- Bhojpur

1. Kanhaiya Paswan Son of Late Shankar Paswan Resident of Village- Belaur, P.S.- Udwant Nagar, District- Bhojpur
2. Magar Singh Son of Gajadhar Singh Resident of Vill- Bagawatipur, P.S.- Udwantnagar, District- Bhojpur
3. Anil Kumar Singh @ Ahiran Singh Son of Krishna Singh Resident of Vill- Bagawatipur, P.S.- Udwantnagar, District- Bhojpur
4. Deepak Kumar Singh Son of Nandjee Singh Resident of Vill- Bagawatipur, P.S.- Udwantnagar, District- Bhojpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Raju Kumar Singh, Advocate

For the Opposite Party/s : Mr. Satya Nand Shukla, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 28-03-2025 Heard Mr. Raju Kumar Singh , learned counsel for the petitioners and Mr. Satya Nand Shukla, learned Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in connection with Udwantnagar P.S. Case No. 544 of 2024, F.I.R dated 08.12.2024 registered for the offences punishable under Section 30(a) of Bihar Prohibition and Excise Act.

3. Recovery is of 42 liters of foreign liquor.

4. Learned counsel for the petitioners submits that the petitioners have clean antecedent and 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. He further submits that it appears from the F.I.R that nothing has been recovered from the conscious possession of the petitioners rather the recovery has been made from the motorcycle in question. 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 petitioner under the Bihar Prohibition and Excise Act.

5. The 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, nothing has been recovered from conscious possession of the petitioners and petitioners have clean antecedent, 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 Judge Excise Court No. II, Bhojpur at Ara in connection with Udwantnagar P.S. Case No. 544 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 antecedents 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 bonds 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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