

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.15217 of 2025

Arising Out of PS. Case No.-1153 Year-2024 Thana- GAYA MUFASIL District- Gaya

1. Kabir Chaudhary @ Kavir Chaudhary S/O Gulab Chand Chaudhary R/O Village- Mansa Bhore, P.S - Mufassil, District- Gaya.
2. Gulab Chand Chaudhary S/O Late Shama Chaudhary @ Late Sabhma Chaudhary R/O Village- Mansa Bhore, P.S - Mufassil, District- Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr. Dr. Kumar Uday Pratap, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 10-04-2025 Heard Mr. Arun Kumar, learned counsel for the

petitioners and Dr. Kumar Uday Pratap, learned Additional

Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in
connection with A.B.P. No. 05/2025 arising out of Muffasil P.S.
Case No. 1153 of 2024, F.I.R dated 30.12.2024 registered for
the offences punishable under Section 30(a) of Bihar Prohibition
and Excise Act.

3. Recovery is of 35 liters of country made *Mahua*
liquor.

4. Learned counsel for the petitioners submits that
the petitioners are innocent 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 an open place and their name transpired on the basis of disclosure made by local villagers. Petitioner no.1 is the son of petitioner no.2 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. He further submits that petitioner no.1 has got two criminal antecedents other than the present one and petitioner no.2 has got clean antecedent but fairly submits on the basis of paragraph-3 of the bail petition that petitioner no.1 is on bail in the pending matters.

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 recovery has been made from an open place and their name transpired on the basis of disclosure made by local villagers, 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 Excise Court No.01, Gaya in connection with Muffasil P.S. Case No. 1153 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 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 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)

Suruchi/-

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

