

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20017 of 2025

Arising Out of PS. Case No.-152 Year-2024 Thana- Excise P.S. District- Madhepura

1. Gunjan Devi Wife of Karan Chouhan @ Karan Noniya Resident of Village-
Burhave, Ward No. 14, P.S.- Gingheshwar, Distt.- Madhepura
2. Karan Kumar @ Karan Noniya Son of Jugal Chouhan @ Jugal Noniya
Resident of Village- Burhave, Ward No. 14, P.S.- Gingheshwar, Distt.-
Madhepura
3. Dinesh Chouhan @ Dinesh Noniya Son of Jugal Chouhan @ Jugal Noniya
Resident of Village- Burhave, Ward No. 14, P.S.- Gingheshwar, Distt.-
Madhepura

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Dinesh Prasad Verma, Advocate
For the Opposite Party/s : Mrs. Shaheen Begum, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 24-04-2025 Heard Mr. Dinesh Prasad Verma, learned counsel

for the petitioners and Mrs. Shaheen Begum, learned Additional

Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in
connection with Excise P.S. Case No. 152 of 2024, F.I.R dated
18.08.2024 registered for the offences punishable under
Sections 30(a) & 45 of Bihar Prohibition and Excise
Amendment Act.

3. Recovery is of 20 liters of country made Chulai
liquor and 600 ml of illegal cough syrup.

4. Learned counsel for the petitioners submits that



the petitioners are innocent and they have falsely been implicated in the present case. He further submits that it appears from the F.I.R that nothing has been recovered from the conscious possession of the petitioners. He further submits that the allegation against the petitioners is that they have attacked on the excise raiding party for release of the apprehended co-accused persons. He further submits that from perusal of the F.I.R it appears that there is no specific allegation of assault or overt act attributed against the petitioners rather there is general and omnibus allegation against all the accused persons including these petitioners. 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 the petitioners carries one criminal antecedent other than the present one.



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 that nothing has been recovered from conscious possession of the petitioners and the allegation against the petitioners are general and omnibus in nature, 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 Additional Sessions Judge-VII-cum-Special Judge Excise Court No. 2, Madhepura in connection with Madhepura Excise P.S. Case No. 152 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 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)

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