

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.17337 of 2025

Arising Out of PS. Case No.-747 Year-2024 Thana- RAFIGANJ District- Aurangabad

1. Jay Ram Yadav son of Barat Yadav @ Ram Barat Yadav village- Kunwar Bigha, Ps- Rafiganj, Dist- Aurangabad
2. Parshuram Yadav Son of Barat Yadav @ Ram Barat Yadav village- Kunwar Bigha, Ps- Rafiganj, Dist- Aurangabad

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Lalbahadur Singh, Advocate

For the Opposite Party/s : Mrs. Gulnar Begum, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 21-04-2025 Heard Mr. Lalbahadur Singh, learned counsel for the petitioners and Mrs. Gulnar Begum, learned Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in connection with Rafiganj P.S. Case No. 747 of 2024, F.I.R dated 18.12.2024 registered for the offences punishable under Section 30(a) of Bihar Prohibition and Excise Act, 2018.

3. Recovery is of 1080 kg of Mahua.

4. Learned counsel for the petitioners submits that the petitioner no. 2 has clean antecedent and petitioner no. 1 carries one criminal antecedent other than the present one and they have falsely been implicated in the present case on the



basis of secret information. He further submits that it appears from the F.I.R as well as seizure list that nothing has been recovered from the conscious possession of the petitioners rather the recovery has been made from the pick-up van which was at a distance of about 100 meters from the PACS Godown and except the secret informant, no other material has come during investigation to suggest the involvement of the petitioners in the present occurrence. 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 petitioner no. 2 has clean antecedent and petitioner no. 1 carries one criminal antecedent other than the present one but fairly submits on the basis of paragraph 3 of the bail petition that the petitioner no. 2 is on bail in the pending matter.

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 District & Additional Sessions Judge-cum-Special Judge, Excise Court No. 1, Aurangabad, Bihar in connection with Rafiganj P.S. Case No. 747 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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