

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.17867 of 2025

Arising Out of PS. Case No.-572 Year-2024 Thana- JAMUI District- Jamui

1. Jyotish @ Jyotish Mandal Son of Fekan Mandal Resident of Village-Manjhwe, P.S.-Jamui, District-Jamui.
2. Sowarath Mandal @ Sogarath Mandal Son of Jay Mandal Resident of Village-Manjhwe, P.S.-Jamui, District-Jamui.
3. Rajesh Sharma son of Suresh Sharma Resident of Village- Chhatu Dhanama, P.S.-Jamui, District-Jamui.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr. Mithlesh Kumar Khare, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 19-03-2025 Heard Mr. Dipak Kumar, learned counsel for the petitioner and Mr. Mithlesh Kumar Khare, learned Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in connection with Jamui P.S. Case No. 572 of 2024, F.I.R dated 08.09.2024 registered for the offences punishable under Section 30(a) of Bihar Prohibition and Excise Act.

3. Recovery is of 950 ml of country made liquor.

4. Learned counsel for the petitioners submits that the petitioners 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 vehicle in question and the name of petitioners transpired on the basis of disclosure of one apprehended co-accused namely Sintu Kumar. He further submits that similarly situated co-accused persons namely Nitish Kumar Mandal and Dhiraj Kumar @ Dhiraj Saw have been granted anticipatory bail by this Court vide order dated 12.02.2025 in Cr. Misc No. 3508 of 2025. 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 petitioner 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 and circumstances and the fact that nothing has been recovered from conscious possession of the petitioners and name of petitioners transpired on the basis of disclosure made by co-accused person and similarly situated co-accused persons have been granted anticipatory bail by this Court, let the petitioner, above named, in the event of his 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) with two sureties of the like amount each to the satisfaction of the learned Exclusive Excise Court-I, Jamui in connection with Jamui P.S. Case No. 572 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 petitioner 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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