

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25073 of 2025

Arising Out of PS. Case No.-455 Year-2024 Thana- RIGA District- Sitamarhi

1. Manish kumar Mandal @ Manish Kumar S/o- Budhan Mndal @ Budhan Mandal Resident of Villag- Rewasi, Ward No. 10, Post- Rewasi Maksudpur, P.S. Riga, District- Sitamarhi, Bihar-843327.
2. Sunil Yadav @ Sunil Kumar @ Sethh S/o- Triveni Roy @ Triveni Yadav Resident of Villag- Rewasi, Ward No. 10, Post- Rewasi Maksudpur, P.S. Riga, District- Sitamarhi,

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Noushad Khan, Advocate
For the Opposite Party/s : Mr. Anil Kumar, A.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 14-07-2025 Heard Mr. Noushad Khan, learned counsel for the petitioners and Mr. Anil Kumar, learned Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in connection with Riga P.S. Case No. 455 of 2024, F.I.R. dated 31.12.2024 for the offences punishable under Section 30(a) of the Bihar Prohibition and Excise Act, 2022.

3. Recovery is of 16.800 litres of illicit liquor.

4. Learned counsel for the petitioners submit that the petitioners have clean antecedent and they have been falsely implicated in the present case. The allegation as alleged in the FIR is false and fabricated and the petitioners have not



committed any offence as alleged in the FIR. It appears from the FIR as well as the seizure list that nothing has been recovered from conscious possession of the petitioners rather the recovery has been made from motorcycle in question although, petitioner no. 2, namely, Sunil Yadav @ Sunil Kumar @ Sethh is owner of the motorcycle in question and he has been made accused merely on the ground that he is owner of the motorcycle, apart from that some illicit liquor has been recovered from the hut of the petitioner no. 1. Learned counsel further submits that the hut in question does not belong to him and the same belongs to the uncle of the petitioner no. 1. The name of the petitioners have been transpired during investigation on the basis of the confessional statement of *chawkidaar*. There is non-compliance with mandatory procedure prescribed for recovery under Section 100 of Cr.P.C./Section 103 of BNSS, 2023. No case, whatsoever, would be made out against the petitioners under the Bihar Prohibition and Excise Act.

5. Learned A.P.P. for the State has vehemently opposed the prayer for 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) PLJR 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, petitioners have clean antecedent, nothing has been recovered from conscious possession of the petitioners and name of the petitioner has been transpired during investigation on the basis of the confessional statement of *chawkidaar*, 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) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Excise Judge-1, Sitamarhi in connection with Riga P.S. Case No. 455 of 2024, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure/ Section 482(2) of BNSS, 2023 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 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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