

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20516 of 2025

Arising Out of PS. Case No.-548 Year-2021 Thana- KADAMKUAN District- Patna

1. Gautam Ram Son of Laxman Ram Resident of Mohalla - Nala Road, Ambedkar Bhawan, P.S. - Kadamkuan, District - Patna
2. Rohit Ram @ Rohit Kumar @ Sukli Son of Laxman Ram Resident of Mohalla - Nala Road, Ambedkar Bhawan, P.S. - Kadamkuan, District - Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr. Jagdhar Prasad, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

5 04-08-2025 Heard Mr. Aryan Singh, learned counsel for the petitioners and Mr. Jagdhar Prasad, learned Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in connection with Kadamkuan P.S. Case No. 548 of 2021, F.I.R dated 20.01.2021 registered for the offences punishable under Section 30(a) of Bihar Prohibition and Excise Act.

3. Recovery is of 10 liters of country made liquor.

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 rather the recovery has been made from the scooty in question and one Baili Devi is the registered owner of the scooty who happens to be wife of the petitioner no. 1. Petitioners have been made accused in the present case merely on the ground that petitioner no. 1 is the husband and petitioner no. 2 is the brother-in-law of Baili Devi. 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 are named in the F.I.R and apart from that the petitioner no. 1 carries one criminal antecedent other than the present one and petitioner no. 2 carries two criminal antecedents other than the present one but the same does not pertain to excise matter except one case which is against the petitioner no. 2.



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 petitioners have been made accused merely on the ground that they are family members of Baili Devi who happens to be the owner of the scooty in question, 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 Special Judge, Excise-II, Patna in connection with Kadamkuan P.S. Case No. 548 of 2021, 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 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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