

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.24187 of 2025

Arising Out of PS. Case No.-109 Year-2024 Thana- CHAKIA District- East Champaran

1. Sujeet Kumar son of Motilal Mahto, Resident of village - Mansi Chapra, PS- Chakia, Dist- East Champaran.
2. Deepak Kumar @ Deepal Kumar, Son of Motilal Mahto, Resident of village - Mansi Chapra, PS- Chakia, Dist- East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Abhishek Kumar, Adv.
For the Opposite Party/s : Mr. Nirmal Kumar Sinha, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 01-05-2025 Heard learned Advocate for the petitioners and
learned APP for the State.

2. The petitioners apprehend their arrest in connection with Chakia P.S. Case No. 109 of 2024 registered for the offence punishable under Section 30(a) of the Bihar Prohibition and Excise Act.

3. The petitioners are alleged to have been engaged in trafficking of illicit wine; the police on a secret information raided the house of petitioner no.1, however, on noticing the police party, 4-5 persons, who were present there tried to flee away, out of which, two persons were apprehended. On interrogation, the apprehended persons disclosed the name of



the petitioners, as the persons who succeeded in fleeing away. In course of search, 43.2 lts. of foreign liquor was recovered from the pick-up van, which was kept in front of the house of the petitioner no.1. Further, 102.96 lts. of foreign liquor was recovered from a hut, which belongs to the petitioner no.1. In this way, total 146.16 lts of foreign liquor was recovered.

4. Learned counsel for the petitioners contended that, in fact, on account of suspicion, when the police conducted raid, a pick-up van was found parked near the house of the petitioners from where recovery of illicit liquor has been made and taking clue from the unscrupulous person, the name of the petitioners has been implicated in this case. Moreover, the recovery allegedly made from the hut of petitioner no.1 is also factually incorrect, as the same is abandoned in nature and constructed over the joint family land and, as such, the petitioner no.1 is not the owner of the hut; and, as such, the petitioner no.1 cannot be said to be responsible for any recovery. The petitioners bear fair antecedent and save and except disclosure made by the apprehended persons, there is no other material; the rigors provided under Section 76(2) of the Bihar Prohibition and Excise Act, 2016 (for short 'the Act, 2016) is not attracted in the case in hand.



5. On the other hand, learned counsel for the State opposed the bail application and submitted that the recovery of the illicit wine from the hut of the petitioner no.1 clearly suggests his involvement and, as such in view of Section 76(2) of the Act, 2016, the bail application is not maintainable on behalf of the petitioner no.1.

6. Regard being had to the submissions made on behalf of the parties and considering the fact that the alleged recovery has been made from a hut which is abandoned in nature and falling within a land belonging to joint family of the petitioner no.1, coupled with the fair antecedent of the petitioners and also the fact that save and except the confessional statement of the apprehended persons, there is no material; hence, in the facts of the case as also the law laid down by the Full Bench of this Court in the case of **Ram Vinay Yadav v. The State of Bihar [2019(2) P.L.J.R. 1089]**, the rigors provided under Section 76(2) is not attracted, let the above named petitioners, be released on bail, in the event of their arrest or surrender before the learned Court below within a period of four weeks from today, on furnishing bail bond of Rs. 10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of learned Exclusive Special



Excise Court No.3, East Champaran, Motihari in connection with Chakia P.S. Case No. 109 of 2024, subject to the condition as laid down under Section 438(2) of the Cr.P.C., with further condition that one of the bailors shall be the own/close family members of the petitioners.

(Harish Kumar, J)

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