

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.24927 of 2025**

Arising Out of PS. Case No.-138 Year-2024 Thana- EXCISE PATORI District- Samastipur

1. Gautam Kumar S/O Karu Ray R/O Village- Raghapur, P.S.- Judawanpur, District- Vaishali
2. Kaushal Kumar S/O Arvind Ray Resident of Village- Mukundpur (Makanpur), P.S.- Patori, District- Samastipur

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

**Appearance :**

|                          |   |                           |
|--------------------------|---|---------------------------|
| For the Petitioner/s     | : | Mrs. Rina Sinha           |
|                          |   | Mr.Dhirendra Prasad Sinha |
| For the Opposite Party/s | : | Mr.Sharda Kumari          |

**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH**

ORAL ORDER

2      04-07-2025                      Heard learned counsel for the petitioners and learned Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in a case in connection with Patori Excise P.S. Case No. 138/2024 dated 12.12.2024 registered for the offence punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 96.840 litres of illicit foreign liquor was recovered from the Bolero car.

4. Learned counsel for the petitioners has submitted that the petitioners are innocent and have falsely been implicated in this case. The petitioner no. 1 has clean antecedent whereas the petitioner no. 2 has one criminal antecedent as



stated in para 3 of the bail petition. The petitioners are neither the owner nor the driver of the said vehicle. The apprehended co-accused person, Bhola Kumar disclosed the name of the petitioners. Nothing has been recovered from the conscious possession of the petitioners hence, no case is made out against the petitioners. Learned Counsel has relied on the judgment of Full Bench of Hon'ble Patna High Court in the case of **Ram Vinay Yadav vs. State of Bihar reported in 2019 (2) PLJR 1089**. The Full Bench in the case of **Ram Vinay Yadav (supra)** has held that an application for anticipatory bail in a case arising out of Bihar Excise and Prohibition Act can be maintained, despite the bar under Section 76 (2) of the Act, if on the basis of allegation made in the FIR, no offence under the said provision is made out.

5. Learned A.P.P. for the State has vehemently opposed the prayer for anticipatory bail of the petitioners by submitting that the bar of Section 76(2) of the Act applies in this case.

6. Considering the aforesaid facts and circumstances of the case as well as the nature of allegation against the petitioners, let the above named petitioners, in the event of their arrest/surrender within a period of six weeks from today, be



enlarged on bail on furnishing bail-bond of Rs. 20,000/- (Rupees Twenty thousand) each with two sureties of the like amount each to the satisfaction of learned court concerned, Samastipur in connection with Patori Excise P.S. Case No. 138/2024, subject to conditions as laid down under Section 482(2) of the B.N.S.S.

7. This application stands allowed.

**(Chandra Prakash Singh, J)**

atul/-

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