

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23853 of 2025

Arising Out of PS. Case No.-40 Year-2025 Thana- ISUAPUR District- Saran

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1. Aryan Singh @ Raja S/o Late Sudhir Singh R/o vill- Vikrampur, P.S- Marhaura, Dist- Saran
 2. Mahesh Singh S/o Paras Singh R/o vill - Datra Pursauli, P.S.- Isuapur, Distt.- Saran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Ms. Asha Devi, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA

ORAL ORDER

3 16-05-2025 1. Heard learned counsel for the petitioners and learned A.P.P. for the State.

2. The petitioners apprehend their arrest in a case registered for the offence punishable under Section 30(a) of the Bihar Prohibition and Excise (Amendment) Act, 2022.

3. Learned counsel for the petitioners submits that petitioner no. 1 has antecedent of one case and petitioner no. 2 is a person with clean antecedent and allegation is of recovery of 560.34 litres of liquor from the house of petitioner no. 2.

4. Learned counsel for the petitioners submits that petitioners were not arrested from the spot, as such, nothing was recovered from their conscious possession. It is further submitted that the house in question is a joint family property, as



such, it cannot be alleged with certainty that it was the petitioner no. 2 who had kept the liquor in the house or the liquor kept in the house was within his knowledge. It is next submitted that after amendment in the Excise Act in the year 2018, the concept of deemed possession and presumed offender has been done away with. It is also submitted that petitioner no. 1 has no relation with petitioner no. 2 and they came to be implicated at the instance of the Chawkidar. It is submitted that in cases relating to excise the police implicate mechanically either at the instance of the Chawkidar, local person, secret information or confessional statement.

5. Learned A.P.P. for the State opposes the prayer for anticipatory bail of the petitioners.

6. Considering the submissions made by the learned counsel for the petitioners, let the petitioners above-named, in the event of their arrest or surrender before the learned Court below within a period of six weeks from today, be released on provisional anticipatory bail on furnishing bail bonds of Rs.5,000/- (Rupees Five Thousand) each with two sureties of the like amount each to the satisfaction of the learned court below where the case is pending/successor court in connection with Isuapur P.S. Case No. 40 of 2025, subject to the conditions



as laid down under Section 438 (2) of the Cr.P.C.

7. It is made clear that thereafter the learned trial court shall verify the criminal antecedent of the petitioners and if it is found that petitioner no. 1 has antecedent of more than one case and petitioner no. 2 has antecedent of even one case, it would be presumed that petitioners had concealed their antecedent before this Court at para 3 of the anticipatory bail application in that event the provisional anticipatory bail order shall not be confirmed but if it is found on verification that petitioner no. 1 has antecedent of only one case and petitioner no. 2 is a person with clean antecedent in that event the provisional anticipatory bail order shall be confirmed forthwith.

(Satyavrat Verma, J)

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