

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25913 of 2025

Arising Out of PS. Case No.-426 Year-2024 Thana- LADANIA District- Madhubani

1. Chandrakala Devi W/O Lalit Paswan R/O Vill.- Pathrahi Sarsara, P.S.- Ladaniya, Dist.- Madhubani
2. Lalit Paswan S/O Shiv Kumar Paswan R/O Vill.- Pathrahi Sarsara, P.S.- Ladaniya, Dist.- Madhubani

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Subhash Kumar Jha, Advocate

For the Opposite Party/s : Mr. Gauri Shankar Gupta, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 03-07-2025 Heard Mr. Subhash Kumar Jha, learned counsel
for the petitioners and Mr. Gauri Shankar Gupta, learned
Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in connection with Ladaniya P.S. Case No. 426 of 2024, F.I.R dated 24.12.2024 registered for the offences punishable under Sections 274, 275 and 3(5) of the Bhartiya Nyaya Sanhita, 2023 and Section 30(a) of Bihar Prohibition and Excise Act, 2022.

3. Recovery is of 130 liters of country made Chulai liquor.

4. Learned counsel for the petitioners submits that



the petitioners have clean antecedent and they have falsely been implicated in the present case. He further submits that the allegation as alleged in the F.I.R. is false and fabricated and the petitioners have not committed any offences as alleged in the F.I.R. Although there is specific allegation in the FIR that 10 liters of country made liquor has been recovered from the house of each of the co-accused persons including the petitioners. He further submits that the petitioners are not the exclusive owner of the house in question and the same is the joint house property of the petitioners. 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. He further submits that the similarly situated co-accused, namely, Bahru Paswan has been granted anticipatory bail by a Co-ordinate Bench of this Court vide order dated 01.05.2025 passed in Cr. Misc. No. 23067 of 2025.

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.

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 the petitioners have clean antecedent, petitioners are not the exclusive owner of the house in question and the co-accused has been granted bail, 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 Additional Sessions Judge 2nd cum Special Judge Excise Act, Madhubani in connection with Ladaniya P.S. Case No. 426 of 2024, 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 tampers 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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