

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26567 of 2025

Arising Out of PS. Case No.-231 Year-2024 Thana- SARMERA District- Nalanda

1. Punjabi Dhadhi @ Punjabi Son of Jagdish Dhadhi Resident of village - Chhoti Malawan, P.S.- Sarmera, District - Nalanda.
2. Birad Dhadhi Son of Shankar Dhadhi @ Sankar Ram Resident of village - Chhoti Malawan, P.S.- Sarmera, District - Nalanda.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Rajnish Kumar

For the Opposite Party/s : Mr.Shyam Bihari Singh

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 Sarmera P.S. Case No. 231 of 2024 dated 20.10.2024 registered for the offences punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 167 litres of illicit country-made liquor was recovered out of which 118 litres of illicit country-made liquor kept in sacks was recovered from the petitioners and the co-accused persons and 49 litres of illicit country-made liquor kept in sacks was recovered from the co-accused, Jhulum Yadav @ Sukhraj Yadav.



4. Learned counsel for the petitioners has submitted that the petitioners are innocent and have falsely been implicated in this case. The name of the petitioners was disclosed by the local villagers. No incriminating material has been recovered from the conscious possession of the petitioners. The petitioners have no concern with the alleged recovery. The petitioner no.1 has five criminal antecedents and the petitioner no.2 has four criminal antecedents in which they are on bail in all cases as stated in para 3 of the bail petition. The co-accused person has already been granted regular bail by this Court vide order dated 22.03.2025 passed in Cr. Misc. No. 11484 of 2025. Learned counsel has submitted that 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 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 material available on record, let the above named petitioners, in the event of their arrest/surrender within a period of six weeks from today, be enlarged on anticipatory 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 the learned court concerned, Nalanda in connection with Sarmera P.S. Case No. 231 of 2024, subject to conditions as laid down under section 482(2) of the B.N.S.S., with a condition:-

(i) The petitioners are directed to remain physically present before the learned Court below on each and every date, failing which on two consecutive dates without reasonable cause, the bail bonds of the petitioners are liable to be cancelled.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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