

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25435 of 2025

Arising Out of PS. Case No.-544 Year-2021 Thana- MASAUDHI District- Patna

1. Rakesh Kumar S/O Arvind Yadav R/O Village- Badroi, P.S- Masaurhi, New P.S- Lahsuna, Distt.- Patna.
2. Arvind Yadav S/O Late Sarjug Yadav R/O Village- Badroi, P.S- Masaurhi, New P.S- Lahsuna, Distt.- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Barun Prasad, Advocate

For the Opposite Party/s : Mr. Tarkeshwar Nath Thakur, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 09-07-2025 Heard Mr. Barun Prasad, learned counsel for the petitioners and Mr. Tarkeshwar Nath Thakur, learned Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in connection with Masaurhi P.S. Case No. 544 of 2021, F.I.R dated 09.10.2021 registered for the offences punishable under Section 30(a)/30(c) of Bihar Prohibition and Excise Act.

3. Recovery is of 15 liters of desi mahua liquor.

4. Learned counsel for the petitioners submits that the petitioner no. 1 got one criminal antecedent other than the present one and the petitioner no. 2 has clean antecedents and they have falsely been implicated in the present case merely on



the basis of secret information. He further submits that the allegation as alleged in the F.I.R is false and fabricated. He further submits that it appears from the F.I.R and seizure list that nothing has been recovered from the conscious possession of the petitioners rather the recovery has been made near the Morhar Nadi and the petitioners have no concerned with the alleged recovery of illicit liquor and except the aforesaid no other cogent material has come during the investigation which suggests the involvement of the petitioners in the present occurrence.

5. The 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 and submits that the petitioner no. 1 carries one case other than the present one.

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, nothing has been recovered from conscious possession of the petitioners and the petitioners have clean antecedent, 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) with two sureties of the like amount each to the satisfaction of the learned Special Judge, Excise-II, Patna in connection with Masaurhi P.S. Case No. 544 of 2021, 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 tamper 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 petitioner 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)

Jyoti Kumari/-

U		T	
---	--	---	--

