

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34912 of 2025

Arising Out of PS. Case No.-612 Year-2023 Thana- KOILWAR District- Bhojpur

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1. Pawan Kumar @ Pawan Ray S/o Birija Roy R/v - Mudahi, P.s. - Bihta, District - Patna
 2. Ramesh Ray S/o Lalu Roy R/v - Mudahi, P.s. - Bihta, District - Patna
 3. Bhagat Ray S/o Bhunde Roy R/v - Mudahi, P.s. - Bihta, District - Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Ms. Kumari Sujata Sinha, Advocate
For the Opposite Party/s : Ms. Veena Kumari Jaiswal, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 07-08-2025 Heard Ms. Kumari Sujaya Sinha, learned counsel
for the petitioners and Ms. Veena Kumari Jaiswal, learned
Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in connection with Koilwar P.S. Case No. 612 of 2023, F.I.R dated 14.10.2023 registered for the offences punishable under Section 30(a) of Bihar Prohibition and Excise Act, 2018.

3. Recovery is of 35 liters of illicit liquor.

4. Learned counsel for the petitioners submits that the petitioners are innocent and they have falsely been implicated in the present case. She further submits that it appears from the F.I.R as well as seizure list that nothing has



been recovered from the conscious possession of the petitioners rather the recovery has been made from the bank of Son River. She further submits that the petitioners have no concern at all from the alleged recovery of the illicit liquor and they have been made accused on the basis of the disclosure made by the local chowkidar. 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.

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. She further submits that the petitioners carries one criminal antecedent other than and the same does not pertains to the excise matter the present one but fairly submits that the petitioners are on bail in the pending matter.

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 nothing has been recovered from conscious possession of the petitioners and the name of the petitioners has been transpired on the basis of the disclosure made by the local chowkidar, 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 Exclusive Special Excise Court-II, Bhojpur, Ara in connection with Koilwar P.S. Case No. 612 of 2023, 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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