

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28857 of 2025

Arising Out of PS. Case No.-36 Year-2025 Thana- PARSAUNI District- Sitamarhi

1. Mamta Devi W/O Shyam Sahni Resident of Village- Bhulli, P.S.- Parsauni, Dist- Sitamarhi
2. Shyam Sahni S/O Gobardhan Sahni Resident of Village- Bhulli, P.S.- Parsauni, Dist- Sitamarhi
3. Pradeep Sahni S/O Kantlal Sahni Resident of Village- Bhulli, P.S.- Parsauni, Dist- Sitamarhi
4. Sunil Sahni S/O Gobardhan Sahni Resident of Village- Bhulli, P.S.- Parsauni, Dist- Sitamarhi
5. Gobardhan Sahni S/O Late Khelavan Sahni Resident of Village- Bhulli, P.S.- Parsauni, Dist- Sitamarhi

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Ms. Priyadarshni Kumari, Advocate

Mr. Ashok Kumar Jha, Advocate

For the Opposite Party/s : Mr. Anil Kumar, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 08-05-2025 Heard Ms. Priyadarshni Kumari, learned counsel

for the petitioners and Mr. Anil Kumar, learned Additional

Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in connection with Parsauni P.S. Case No. 36 of 2025, F.I.R dated 12.03.2025 registered for the offences punishable under Section 30(a) and 45 of Bihar Prohibition and Excise Act and Sections 126(2), 115(2), 118, 109, 121, 121(2), 132, 352, 351(2) and 3(5) of the Bhartiya Nyaya Sanhita.

3. According to the prosecution story, the informant got secret information that one Gobardhan Sahni along with his



family were indulged in the sale of liquor and when the informant reached at his house then all the accused persons have attacked on the raiding team by throwing bricks and bats and also damaged their vehicle. Two persons were apprehended on whose disclosure 19 liters of wine has been recovered.

4. Learned counsel for the petitioners submits that the petitioner nos. 1, 2 & 5 have clean antecedent and petitioner nos. 3 & 4 carries two criminal antecedents other than the present one and they have falsely been implicated in the present case on the basis of secret information. She further submits that although the petitioners are named in the F.I.R, but the name of the petitioners have been transpired on the basis of the secret information. It appears from the F.I.R that there is no specific allegation of assault against the petitioners rather there is general and omnibus allegation against all the accused persons including these 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.

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 nothing have been recovered from conscious possession of the petitioners and there is no specific allegation of assault against these petitioners, 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 Special Judge Exclusive Excisen Court No. II, Sitamarhi in connection with Parsauni P.S. Case No. 36 of 2025, 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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