

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 26613 of 2025

Arising Out of PS. Case No.-44 Year-2025 Thana- RAGHUNATHPUR District- Siwan

1. Som Nath Bin @ Sheshnath S/O Achchelal Bin Resident of Vill- Shitalpur, P.S-Raghunathpur, Dist- Siwan.
2. Mithilesh Bin @ Buchan Bin @ Mithlesh Kumar Bin S/O Raja Ram Bin Resident of Vill- Shitalpur, P.S-Raghunathpur, Dist- Siwan.
3. Bhola Bin S/O Din Dayal Bin Resident of Vill- Shitalpur, P.S-Raghunathpur, Dist- Siwan.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Ms.Kumari Anupam, Adv.

For the Opposite Party/s : Mr.Parmanand Prasad, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 15-05-2025 Heard Ms. Kumari Anupam, learned Advocate for the petitioners and Mr. Parmanand Prasad, learned Additional Public Prosecutor for the State.

2. The petitioners apprehend their arrest in connection with Raghunathpur P.S. Case No. 44 of 2025, registered for the offences punishable under Section 30(a) of the Bihar Prohibition and Excise (Amendment) Act, 2022.

3. Allegation against the petitioners is of involved in trade of illicit wine. The police in course of patrolling conducted a raid near Kausar Bagicha Diyar. However, noticing the police party, three persons, who were present there, succeeded in fleeing way. The local persons recognized them as the petitioners. In course of search total 135 litres of *mahua chulai*



liquor was recovered.

4. Learned Advocate for the petitioners taking this Court through the FIR contended that the alleged recovery has been made from an open place easily accessible to all. In fact, only on account of past criminal antecedent of petitioner nos. 2 and 3, their names have been implicated in this case. So far petitioner no. 1 is concerned, he is having fair antecedent. There are various other infirmities in search and seizure, apart from non compliance of Section 103 of the BNSS. There is no independent witness to the alleged search and seizure and the petitioners have neither any concern with the place of occurrence nor with the recovered illicit wine.

5. On the other hand, learned Advocate for the State vehemently opposes the bail application and submits that the criminal antecedent of the petitioner nos. 2 and 3 suggests that they are habitual offenders.

6. Regard being had to the submissions made on behalf of the parties and considering the criminal antecedent of petitioner no. 3, who is carrying five criminal cases over his head, out of which one is under Section 307 of the Indian Penal Code, this Court is not inclined to acceded to the prayer for anticipatory bail of petitioner no. 3. Accordingly, prayer for



anticipatory bail of petitioner no. 3 stands rejected.

7. So far petitioner nos. 1 and 2 are concerned; considering the fact that the alleged recovery has been made from an open field, apart from infirmities shown in search and seizure as also the absence of ingredients which attracts the provisions provided under Section 76(2) of the Bihar Prohibition and Excise Act, 2016, let the petitioner nos. 1 and 2 be released on bail, in the event of their arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, upon furnishing bail bonds 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, Siwan in connection with Raghunathpur P.S. Case No. 44 of 2025, subject to the conditions laid down in Section 482(2) of the Bharatiya Nagrik Suraksha Sanhita, 2023, with the further condition that one of the bailors shall be the own/close family members of the petitioners.

(Harish Kumar, J)

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