

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.31205 of 2025**

Arising Out of PS. Case No.-339 Year-2021 Thana- BIHPUR District- Bhagalpur

1. Ajit Kumar Roy @ Ajit Kumar Choudhary Son of Jay Prakash Choudhary vill- Marwa PS- Bihpur Dist -Bhagalpur
2. Haravesar Yadav son of Brahmdeo yadav vill- Marwa PS- Bihpur Dist -Bhagalpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr. Rajive Ranjan Singh, Advocate

For the Opposite Party/s : Mr. Akbar Ali, APP

**CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA**  
**ORAL ORDER**

3      30-07-2025                      Heard Mr. Rajive Ranjan Singh, learned counsel for the petitioners and Mr. Akbar Ali, learned Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in connection with Bihpur (Jhandapur) P.S. Case No.339 of 2021, F.I.R dated 03.08.2024 registered for the offences punishable under Section 30(a) and 32 of Bihar Prohibition and Excise Act and Section 468/34 of the Indian Penal Code.

3. Recovery is of 1983.210 liters of Indian made foreign liquor.

4. Learned counsel for the petitioner submits that the petitioners are not named in the F.I.R. and the name of the



petitioners have transpired on the basis of suspicion as well as previous criminal antecedent of similar nature. It appears from the F.I.R. and the seizure list that nothing has been recovered from the conscious possession of the petitioners rather the recovery has been made from Maruti Suzuki car and truck in question and the petitioners are neither the owner nor the driver of the aforesaid vehicles in question. The petitioners have no concern at all with the alleged recovery of liquor and they have been made accused in the present case only due to their previous criminal antecedent of similar nature and on the basis of suspicion. 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 petitioner under the Bihar Prohibition and Excise Act.

5. The learned Additional Public Prosecutor has vehemently opposed the prayer for anticipatory bail of the petitioner 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. He further submits that the petitioners carry two cases other than the present one but fairly submits that they 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 petitioner.

7. Considering the aforesaid facts that nothing has been recovered from conscious possession of the petitioners and they have been made accused in the present case only due to their previous criminal antecedent of similar nature and on the basis of suspicion, 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 Additional Sessions Judge-IX, Bhagalpur, in connection with Bihpur (Jhandapur) P.S. Case No.339 of 2021s, 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 his absence on two consecutive dates without sufficient reason, his 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 petitioners and in case at any stage it is found that the petitioner 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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