

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31118 of 2025

Arising Out of PS. Case No.-128 Year-2025 Thana- SONEPUR District- Saran

1. Shivam Kumar Son of Kanshi Rai @ Kanshilal Ray Resident of Village - Abdulahi, P.S.- Sonpur, Distt.- Saran at Chapra.
2. Sonu Rai Son of Baban Rai Resident of Village - Rahimpur, P.S.- Sonpur, Distt.- Saran at Chapra.
3. Baban Rai Son of Gati Rai Resident of Village - Rahimpur, P.S.- Sonpur, Distt.- Saran at Chapra.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Vijay Kumar, Adv.
For the Opposite Party/s : Ms.Gulnar Begum, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 11-07-2025 Heard learned counsel for the petitioners and learned Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in a case in connection with Sonepur P.S. Case No. 128/2025 dated 16.02.2025 registered for the offences punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 265 litres of illicit country-made liquor was recovered near the bank of the Ganga river.

4. Learned counsel for the petitioners has submitted that the petitioners are innocent and have falsely been



implicated in this case. The petitioner no. 1 has three criminal antecedents whereas the petitioner nos. 2 and 3 have one criminal antecedent as stated in para 3 of the bail petition. The petitioner has no concern with the alleged recovery rather the recovery has been made from an open place which is accessible to anyone. Nothing has been recovered from the conscious possession of the petitioners, hence no case is made out. The co-accused person has already been granted regular bail by this court vide order dated 15.04.2025 passed in Cr. Misc. No. 19156/2025. Learned Counsel has relied on the judgment of Full Bench of Hon'ble Patna High Court in the case of **Ram Vinay Yadav vs. State of Bihar reported in 2019 (2) PLJR 1089**. The Full Bench in the case of **Ram Vinay Yadav (supra)** has held that an application for anticipatory bail in a case arising out of Bihar Excise and Prohibition Act can be maintained, despite the bar under Section 76 (2) of the Act, if on the basis of allegation made in the FIR, no offence under the said provision is made out.

5. Learned A.P.P. for the State has vehemently opposed the prayer for anticipatory bail of the petitioners by submitting that the bar of Section 76(2) of the Act applies in this case.



6. Considering the aforesaid facts and circumstances of the case as well as the nature of allegation against the petitioners, let the above named petitioners, in the event of their arrest/surrender within a period of six weeks from today, be enlarged on bail on furnishing bail-bond of Rs. 20,000/- (Rupees Twenty thousand) each with two sureties of the like amount each to the satisfaction of learned court concerned, Saran at Chapra in connection with Sonapur P.S. Case No. 128/2025, subject to conditions as laid down under Section 482(2) of the B.N.S.S. with further condition :-

(i) The petitioners are directed to remain physically present before the learned Court below on each and every date, failing which on two consecutive dates without reasonable cause, the bail bonds of the petitioners are liable to be cancelled.

7. This application stands allowed.

(Chandra Prakash Singh, J)

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