

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33912 of 2025

Arising Out of PS. Case No.-411 Year-2024 Thana- BIBHUTIPUR District- Samastipur

1. Jitendra Kumar S/o Ramesh Prasad Singh R/o Village- Mahmadpur Sakara, P.S.- Bibhutipur, District- Samastipur
2. Saroj Kumar S/o Suresh Prasad Singh R/o Village- Mahmadpur Sakara, P.S.- Bibhutipur, District- Samastipur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Mritunjay Kumar
For the Opposite Party/s : Mr.Kanhiya Kishor

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 18-07-2025 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 in connection with Bibhutipur P.S. Case No. 411 of 2024 dated 03.12.2024 registered for the offences punishable u/ss 274 and 275 of BNS and Section 30(a) of the Bihar Prohibition and Excise Amendment Act and Sections 25(1-B)(a), 26 and 35 of the Arms Act.

3. As per the prosecution case, total 256.680 litres of illicit foreign liquor was recovered from the Car and total 3.75 litres of illicit foreign liquor was recovered from the room of service center of the co-accused, Mantun Mahto @ Mantun Kumar. It is further alleged that one country-made pistol and one live cartridge were also recovered.



4. Learned counsel for the petitioners has submitted that the petitioners are innocent and have falsely been implicated in this case. The apprehended co-accused person disclosed the name of the petitioners. The petitioners are neither the owner nor the driver of the seized vehicle as stated in para-10 of the bail petition. No incriminating material has been recovered from the conscious possession of the petitioners. The petitioners have no concern with the alleged recovery. The petitioner no.1 has five criminal antecedent and the petitioner no.2 has one criminal antecedent as stated in para 3 of the bail petition. The co-accused person has already been granted regular bail by this Court vide order dated 03.04.2025 passed in Cr. Misc. No. 16578 of 2025. Learned counsel has submitted that no case is made out against the petitioners. 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 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 material available on record, let the above named petitioners, in the event of their arrest/surrender within a period of six weeks from today, be enlarged on anticipatory 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 the learned court concerned, Samastipur in connection with Bibhutipur P.S. Case No. 411 of 2024, subject to conditions as laid down under section 482(2) of the Code of Criminal Procedure, 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. The application stands allowed.

(Chandra Prakash Singh, J)

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