

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.31213 of 2025**

Arising Out of PS. Case No.-49 Year-2025 Thana- PASRAHA District- Khagaria

1. Nitish Kumar S/O Akal Mandal @ Akkldev Mandal
2. Akal Mandal @ Akkldev Mandal S/O Jhagaru Mandal
3. Anita Devi W/O Akal Mandal @ Akkldev Mandal  
All R/O Village- Bhorkath, P.S-Pasraha, Distt.- Khagaria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr.Parmatma Singh, Advocate  
For the Opposite Party/s : Mr.Sanjay Kumar, APP

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

2      15-05-2025                      Heard Mr.Parmatma Singh, learned counsel for the  
petitioners and Mr.Sanjay Kumar, learned Additional Public  
Prosecutor for the State.

2. The petitioners are apprehending their arrest in  
connection with Pasraha P.S. Case No.49 of 2025,FIR dated  
11.03.2025 registered for the offences punishable under Section  
30(a) of Bihar Prohibition and Excise (Amendment) Act, 2022.

3. Recovery is of 5.475 liters of foreign liquor.

4. Learned counsel for the petitioners submits that the  
petitioners have clean antecedent and they have falsely been  
implicated in the present case. It appears from the FIR as well  
as the seizure list that nothing has been recovered from



conscious possession of the petitioners rather the recovery has been made from the house of the petitioners. Learned counsel for the petitioners submits that the petitioners are not the exclusive owner of the house in question rather the house is the joint family property of the petitioners and it appears from the FIR that the entire family members of the petitioners have been made accused in the present case. There is non-compliance with mandatory procedure prescribed for recovery under Section 100 of Cr.P.C. No case, whatsoever, would be made out against the petitioners under the Bihar Prohibition and Excise Act.

5. Learned A.P.P. for the State has vehemently opposed the prayer for 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) PLJR 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, petitioners have clean antecedent and nothing has been recovered from conscious possession of the petitioners rather the recovery has been made from the joint house property of the 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 learned Special Judge Excise-IV, Khagaria in connection with Pasraha P.S. Case No.49 of 2025, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure 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 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 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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