

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.31246 of 2025**

Arising Out of PS. Case No.-152 Year-2024 Thana- Excise P.S. District- Madhepura

1. ANITA DEVI Wife of Lalit Chouhan
2. Kailash Chouhan @ Kailash Kumar Son of Lalit Chouhan  
Both are Resident of village - Burhave, Ward No.- 14, P.S.- Singheshwar,  
District - Madhepura.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr.Dinesh Prasad Verma, Advocate  
For the Opposite Party/s : Mr.Nand Kumar, APP

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

2      15-05-2025                      Heard Mr.Dinesh Prasad Verma, learned counsel  
for the petitioners and Mr.Nand Kumar, learned Additional  
Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in  
connection with Madhepura P.S. Case No.152 of 2024,FIR  
dated 18.08.2024 registered for the offences punishable under  
Sections 30(a) & 45 of Bihar Prohibition and Excise  
(Amendment) Act, 2018.

3. Recovery is of 20 liters of illegal country made  
Chullai liquor and 600 ml of illegal cough syrup.

4. Learned counsel for the petitioners submits that for  
the same set of allegation two FIRs have been instituted. The



present one is Madhepura P.S. Case No.152 of 2024 and second is Singheshwar P.S. Case No.374 of 2024. Learned counsel for the petitioners submits that the petitioners have been made accused in the present case merely on the ground that the petitioners and other co-accused persons have attacked the police personnel for release of the apprehended co-accused persons which suggests that in the present case nothing has been recovered from conscious possession of the petitioners and petitioners have been made accused in both the cases and similarly situated co-accused persons, namely, Gunjan Devi and others have been granted privilege of anticipatory bail by this Court vide order dated 24.04.2025 passed in Cr. Misc. No.20017 of 2025. 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. Further submits that the petitioners carry one more case for the same set of allegation other than the present



one.

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 and for the same set of allegation two FIRs have been instituted against the petitioners by the prosecution, 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 Court No.2, Madhepura in connection with Madhepura P.S. Case No.152 of 2024, 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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