

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30298 of 2025

Arising Out of PS. Case No.-50 Year-2024 Thana- MAHUAWA District- East Champaran

1. Bagha Mukhiya @ Akhilesh Mukhiya S/o- Mangal Mukhiya Village-Tinkoni,P.S-Darpa ,District-East Champaran
2. Raju Mukhiya S/o- Tubar Mukhiya Village-Tinkoni,P.S-Darpa, District-East Champaran

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Vijay Shankar Shrivastava
For the Opposite Party/s : Mr.Rajesh Kumar

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 Mahuawa P.S. Case No. 50 of 2024 dated 19.11.2024 for the offence/s punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 84 litres of illicit Neapli country made liquor was recovered from the three plastic sacks allegedly thrown by the petitioner and the co-accused persons.

4. Learned counsel for the petitioners has submitted that the petitioners are innocent and have falsely been implicated in this case. Nothing has been recovered from the conscious possession of the petitioners. The recovery was made from an open place that is



accessible to anyone. The petitioners have no concern with the alleged recovery. The name of the petitioners has transpired in the confessional statement of the co-accused Jiya Lal Mukhiya. The petitioner no. 1 has two criminal antecedent and the petitioner no. 2 has four criminal antecedents as stated in para 3 of the bail petition. Learned counsel has submitted that no case is made out against the petitioners. Learned Counsel has relied on the judgment of Full Bench of the 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 the 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, East Champaran, Motihari in connection



with Mahuawa P.S. Case No. 50 of 2024, subject to conditions as laid down under section 482(2) of the BNSS, with further condition/s:-

(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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