

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33146 of 2025

Arising Out of PS. Case No.-101 Year-2024 Thana- SAKRI District- Madhubani

1. Abhishek Kumar Son of Anil Kumar Singh Resident of Mohalla - Satsang Gali Aamgola, P.S.- Kazimohammadpur, District - Muzaffarpur
2. Sunil Kumar @ Gabbar Singh @ Sunila Kumar Son of Late Munar Singh Resident of Mohalla - Gannipur Road, Near Law College, P.S.- Kazimohammadpur, District - Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Hari Kishore Thakur
For the Opposite Party/s : Mr.Meena Singh

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 Sakri P.S. Case No. 101 of 2024 dated 23.05.2024 registered for the offences punishable u/ss 272, 273, 414 read with Section 34 of the I.P.C. and Sections 30(a), 36, 38(1) and 41(1) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 703.875 litres of illicit foreign liquor was recovered from the Truck.

4. Learned counsel for the petitioners has submitted that the petitioners are innocent and have falsely been implicated in this case. The petitioners are not named in the FIR.



The apprehended accused person disclosed the name of the petitioners. The petitioner no.1 is the owner of the said vehicle. 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 clean 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 07.08.2024 passed in Cr. Misc. No. 57285 of 2024. 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, Madhubani in connection with Sakri P.S. Case No. 101 of 2024, subject to conditions as laid down under section 438(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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