

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32569 of 2025

Arising Out of PS. Case No.-68 Year-2025 Thana- RAHIKA District- Madhubani

1. Kailash Yadav S/O Late Suraj Yadav R/O- Kharauwa, P.S- Rahika, District - Madhubani.
2. Babita Devi W/O Kailash Yadav R/O- Kharauwa, P.S- Rahika, District - Madhubani.
3. Suri Ray @ Surendra Ray S/O Late Jhoril Ray R/O- Kharauwa, P.S- Rahika, District - Madhubani.

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Ashok Kumar

For the Opposite Party/s : Mr.Shyam Bihari Singh

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

2 21-05-2025 At the very outset, learned counsel for the petitioners submits that petitioner no. 1, namely, Kailash Yadav has been apprehended and hence, prayer for anticipatory bail of petitioner no. 1 has become infructuous.

2. Accordingly, prayer for anticipatory bail of petitioner no. 1, namely, Kailash Yadav stands dismissed being infructuous.

3. Heard learned counsel for the petitioners, *namely, Babita Devi and Suri Ray @ Surendra Ray* and learned A.P.P. for the State.

4. The petitioners are apprehending their arrest in



connection with Rahika P.S. Case No. 68 of 2025 registered for the offences punishable under Sections 274, 275, 3(5) of BNS, 2023 and Section 30(a) of Bihar Excise (Prohibition) Amendment Act.

5. As per prosecution case, 17.295 litre illicit foreign liquor was recovered from hay house of petitioner no. 3 and Mahal Chowkidar and villagers disclosed the name of petitioners who fled away from the spot.

6. Learned counsel for the petitioners submits that petitioners are innocent and have committed no offence as alleged in the FIR and they have falsely been implicated in this case. Learned counsel submits that no incriminating article has been recovered from conscious possession of the petitioners. Petitioners were not found on the place of occurrence. The alleged recovery has been made from hay house of petitioner no. 3 which is situated beside his residential house and the said hay house is an open place and same is accessible to all and petitioner no. 3 cannot be held responsible for the alleged recovery. Petitioner no. 2 bears criminal antecedent of one case in which he is on bail. Petitioner no. 3 bears no criminal antecedent. Petitioners have no concern with the seized liquor. There is no compliance of Section 103 of BNSS, 2023. In the



light of aforesaid facts and circumstances of the case, no case is made out against the petitioners under the provision of Bihar Prohibition and Excise Act.

7. The learned A.P.P. for the State opposes the prayer for anticipatory bail of the petitioners.

8. Considering the facts and circumstances of the case, argument advanced on behalf of both sides and also taking into consideration the material available on record, *the petitioners, namely, Babita Devi and Suri Ray @ Surendra Ray*, in the event of their arrest or surrender before the learned trial court within a period of six weeks from today, be released on anticipatory bail on furnishing bail bond of Rs. 10,000/- (rupees ten thousand) each with two sureties of the like amount each to the satisfaction of learned District & Additional Sessions Judge-II cum Special Judge, Excise Act, Madhubani in connection with Rahika P.S. Case No. 68 of 2025, subject to the conditions as laid down under Section 482(2) of B.N.S.S.

9. The application stands allowed.

(Alok Kumar Pandey, J)

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