

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38619 of 2025

Arising Out of PS. Case No.-212 Year-2024 Thana- PHULWARIA District- Begusarai

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1. Md Ahrar @ Md Ibrar Son of Salauddin @ Md. Salauddin village- Bathouli, Ps- Barauni, Dist- Begusarai
 2. Bablu Kumar son of Ram Bilas Mahto Village- Havaspur Ganpataul Ps- Mansurchak, dist- Begusarai

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shubhesh Pandey, Advocate
For the Opposite Party/s : Mr. Manoj Kumar, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 23-06-2025 Heard Mr. Shubhesh Pandey, learned counsel for the petitioners and Mr. Manoj Kumar, learned Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in connection with Phulwariya P.S. Case No. 212 of 2024 registered for the offences punishable under Sections 30(a), 32(2), 32(3), 33, 36, 41(1), 41(2) of Bihar Prohibition and Excise Act.

3. Recovery is of 44000 liters ethanol.

4. Learned counsel for the petitioners submits that the petitioners have clean antecedent and have falsely been implicated in the present case. He further submits that the



allegation as alleged in the F.I.R is false and fabricated. He further submits that it appears from the F.I.R that nothing has been recovered from the conscious possession of the petitioners rather the recovery has been made from the truck in question and altogether 44000 litres of the ethanol spirit was recovered from the truck in question and the same was parked inside the boundary wall of the co-accused person, namely, Manimala Devi and the petitioners have no concerned with the alleged recovery of illicit liquor or the co-accused persons and the petitioners are neither the owner nor the driver of the truck in question and the name of the petitioners have been transpired on the basis of secret information and except the secret information, no other cogent material has come during investigation which suggests the involvement of the petitioners in the present occurrence and the similarly situaed co-accused person, namely, Md. Akbar Khan has been granted the privilege of anticipatory bail vide order dated 02.04.2025 in Cr. Misc. No. 14577 of 2025.

5. The learned Additional Public Prosecutor has vehemently opposed the prayer for anticipatory 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) P.L.J.R. 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, nothing has been recovered from conscious possession of the petitioners, name of the petitioners have been transpired on the basis of secret information, the similarly situated co-accused person has been granted bail and the petitioners have clean antecedent, 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) with two sureties of the like amount each to the satisfaction of the learned Exclusive Special Excise Judge-I, Begusarai in connection with Phulwariya P.S. Case No. 212 of 2024, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure / Section 482(2) of the Bhartiya Nagarik Suraksha



Sanhita 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 petitioner 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)

Jyoti Kumari/-

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