

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31267 of 2025

Arising Out of PS. Case No.-304 Year-2025 Thana- SONEPUR District- Saran

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1. Mithilesh Kumar Rai @ Mithilesh Kumar S/o Ram Pravesh Ray R/o Vill.- Sabalpur Chaharam, P.S.- Sonpur, Distt.- Saran
 2. Subhash Kumar S/o Bachcha Ray R/o Vill.- Sabalpur Chaharam, P.S.- Sonpur, Distt.- Saran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ganesh Prasad Singh, Advocate

For the Opposite Party/s : Mr.Md. Ataur Rahman, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 15-05-2025 Heard Mr.Ganesh Prasad Singh, learned counsel for the petitioners and Mr.Md. Ataur Rahman, learned Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in connection with Sonpur P.S. Case No.304 of 2025, FIR dated 02.04.2025 registered for the offences punishable under Section 30(a) of Bihar Prohibition and Excise (Amendment) Act, 2018.

3. Recovery is of 700 liters of country made liquor.

4. Learned counsel for the petitioners submits that the petitioners have falsely been implicated in the present case due to previous criminal antecedent of the petitioners. It appears from the FIR as well as the seizure list that nothing has been



recovered from conscious possession of the petitioners rather the recovery has been made from two places and first recovery has been made from the bank of river and name of the petitioners has been transpired during investigation on the basis of the disclosure made by local Chaukidar as well as by local people. Learned counsel for the petitioners submits that except the aforesaid, no other material has come during investigation against the petitioners to suggest the involvement of the petitioners in the present occurrence. 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 two more cases of similar nature other than the present one but fairly submits that the petitioners are on bail in both the cases, as mentioned in para-3 of the bail petition.

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, nothing has been recovered from conscious possession of the petitioners and name of the petitioners has been transpired during investigation on the basis of the disclosure made by local Chaukidar as well as by local people, 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 2nd Exclusive Special Excise Judge, Saran at Chapra in connection with Sonpur P.S. Case No.304 of 2025, 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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