

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.42345 of 2025

Arising Out of PS. Case No.-303 Year-2024 Thana- KAKO District- Jehanabad

1. Sudhir Kumar @ Sudhir Yadav Son of Bhoru Yadav Resident Of Village -Devraj Bigha, Ps -Kako, Dist- Jehanabad
2. Shyam Nandan Yadav Son of Dinesh Yadav Resident Of Village -Devraj Bigha, Ps -Kako, Dist- Jehanabad
3. Ajeet Kumar Son of Shyam Babu Prasad Resident Of Village -Devraj Bigha, Ps -Kako, Dist- Jehanabad

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Nityanand Neeraj, Advocate

For the Opposite Party/s : Mr. Narsingh Tanti, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 16-07-2025 Heard Mr. Nityanand Neeraj, learned counsel for the petitioners and Mr. Narsingh Tanti, learned Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in connection with Kako P.S. Case No. 303 of 2024, F.I.R dated 20.10.2024 registered for the offences punishable under Section 30(a) of Bihar Prohibition and Excise Act.

3. Recovery is of 25 liters of country made Mahua liquor.

4. Learned counsel for the petitioners submits that the petitioner no. 3 has clean antecedent and petitioner nos. 1 and 2 carries one criminal antecedent each other than the present one and the same are not with respect to excise case and they have falsely been implicated in the present case on the basis of secret information but the prosecution has not disclosed the



basis of secret information. He further submits that it appears from the F.I.R as well as seizure list that nothing has been recovered from the conscious possession of the petitioners rather 25 liters of country made liquor has been recovered near cremation ghat. Petitioners have no concern at all with the alleged recovery of the illicit liquor. He further submits that the similarly situated co-accused, namely, Pawan Kumar has been granted anticipatory bail by this Court vide order dated 08.01.2025 passed in Cr. Misc. No. 88726 of 2024. There is non-compliance with mandatory procedure prescribed for recovery under Section 100 of Cr.P.C / Section 103 of Bhartiya Nagarik Suraksha Sanhita. No case, whatsoever, would be made out against the petitioners under the Bihar Prohibition and Excise Act.

5. 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. He further submits that the petitioner nos. 1 and 2 carries one criminal antecedent other than the present one but fairly submits on the basis of paragraph 3 of the bail petition that the petitioners are on bail in



the pending matter.

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 that nothing has been recovered from conscious possession of the petitioners, due to secret information their name have been implicated in this case and the co-accused has been granted bail by this Court, 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 the learned Special Excise Court No. 1st, Jehanabad in connection with Kako P.S. Case No. 303 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 tampers 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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