

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33519 of 2025

Arising Out of PS. Case No.-29 Year-2025 Thana- Bahera District- Gaya

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1. Pradip Yadav @ Pradip Kumar S/O Mukhlal Yadav @ Kameshwar Yadav
R/O Village- Kothwara (Amarut) , P.S.- Bahera, District- Gaya
 2. Saurabh Kumar Son of Raju Kumhar @ Raju Prajapati @ Rajesh Prajapati
R/O Village- Kothwara (Amarut) , P.S.- Bahera, District- Gaya

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ajay Kumar Sinha, Advocate

For the Opposite Party/s : Mr. Bharat Lal, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 21-05-2025 Heard Mr. Ajay Kumar Sinha, learned counsel for

the petitioners and Mr. Bharat Lal, learned Additional Public

Prosecutor for the State.

2. The petitioners are apprehending their arrest in
connection with Bahera P.S. Case No. 29 of 2025, F.I.R dated
10.03.2025 registered for the offences punishable under Section
30(a) of Bihar Prohibition and Excise Act, 2018.

3. Recovery is of 33.5 liters of foreign liquor.

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 and seizure list that nothing has been recovered from the conscious possession of the petitioners rather the recovery has been made from the tempo in question and the name of the petitioners have been transpired on the basis of disclosure made by the apprehended co-accused person, namely, Mukesh Kumar and as per the allegation in the F.I.R., the petitioners were fled away from the place of occurrence. He further submits that except the confessional statement of the co-accused person, no other cogent material has come during investigation which suggests the involvement of the petitioners in the present occurrence.

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 and the petitioners have clean antecedent and the name of the petitioners have been transpired on the basis of disclosure made by the co-accused person, 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 Exclusive Special Excise Court No. 5, Gaya in connection with Bahera P.S. Case No. 29 of 2025, 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)

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