

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33602 of 2025

Arising Out of PS. Case No.-124 Year-2025 Thana- SAKRA District- Muzaffarpur

1. Virendra Kumar S/o Krishndev Prasad Resident Of Village- Simra, Ps- Sakra, Distt.- Muzaffarpur
2. Nagendra Kumar @ Vipin S/o Krishndev Prasad Resident Of Village- Simra, Ps- Sakra, Distt.- Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sachin Kumar, Advocate

For the Opposite Party/s : Mr. Pawan Kumar Chaurasia, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 22-05-2025 Heard Mr. Sachin Kumar, learned counsel for the petitioners and Mr. Pawan Kumar Chaurasia, learned Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest connection with Sakra P.S. Case No. 124 of 2025, F.I.R. dated 13.03.2025 registered for the offences punishable under Sections 274, 275, 316(2), 3(5) of BNS and Sections 30(a)(b)(c) (d), 33, 35, 36 of Bihar Prohibition & Excise Act.

3. The case related to recovery of (1) 40 litres liquid chemical substance (2) 4 litres foreign liquor containing 20 litres of plastic jar (3) 1.26 litres foreign liquor (4) 3.375 litre of foreign liquor (5) 16.885 litre of foreign liquor (6) 12 pieces of



empty bottle of 180 ml (7) 65 pieces of empty bottle of 375 ml (8) 42 pieces of empty bottle of 375 ml (9) One plastic bag in full of Royal Stag, Imperial Blue, MC Dowells No. 1, mobiles and other articles.

4. Learned counsel for the petitioners submits that the petitioners have clean antecedents and they have falsely been implicated in the present case on the basis of secret information as well as disclosure made by local choukidar. 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 recovery has been made behind the house of the petitioners and petitioners have no concern at all with the alleged recovery of illicit liquor and except the secret information/disclosure made by local choukidar, no cogent material has come during investigation to suggest the involvement of the petitioners in the present occurrence. Therefore, the recovery cannot be attributed to the petitioners. There is non-compliance with mandatory procedure prescribed for recovery under Section 100 of Cr. P.C./ Section 103 of BNSS, 2023 No case, whatsoever, would be made out against the petitioners under the Bihar Prohibition and Excise Act.

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 and the fact that the petitioners having clean antecedent and nothing has been recovered from conscious possession of the petitioners, 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 Exclusive Special Judge, Excise Court No. 1, Muzaffarpur in connection with Sakra PS. Case No. 124 of 2025, subject to the conditions as laid down under Section



438(2) of the Code of Criminal Procedure/Section 482(2) of BNSS, 2023 and with other following conditions:-

1. 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 bonds shall be cancelled by the Court below.

2. 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.

3. 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 antecedents, 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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