

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.39987 of 2025

Arising Out of PS. Case No.-52 Year-2025 Thana- GANGABRIDGE District- Vaishali

1. Jainath Rai @ Jainath Kumar S/o Bhuneshwar Rai Resident of Village- Diwantok, P. S.- Ganga Bridge, Dist- Vaishali
2. Guddu Kumar S/o Rajvansh Rai Resident of Village- Diwantok, P. S.- Ganga Bridge, Dist- Vaishali

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Satya Prakash Parasar, Advocate

For the Opposite Party/s : Mr. Abhay Kumar Roy, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 26-06-2025 Heard Mr. Satya Prakash Parasar, learned counsel for the petitioners and Mr. Abhay Kumar Roy, learned Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest connection with Ganga Bridge P.S. Case No. 52 of 2025, F.I.R. dated 11.04.2025 registered for the offences punishable under Section 30(a) of Bihar Prohibition & Excise (Amendment) Act, 2022.

3. The case relates to recovery of 80 litres of country made liquor.

4. Learned counsel for the petitioners submits that the petitioners are innocent and they have falsely been implicated in



the present case on the basis of disclosure made by apprehended co-accused person namely Shambhu Rai. 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 from the Tempo in question and altogether 80 litres of country made liquor was recovered and co-accused person namely Shambhu Rai accepted that he is the owner of the vehicle in question and he also disclosed that the petitioners have escaped from the place of 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. He further submits that the petitioner no. 1 carries three more cases other than the present one and petitioner no. 2 carries one more case other than



the present one but fairly submits on the basis of paragraph-3 of the bail petitioner that the petitioner no. 1 and petitioner no. 2 are on bail in all the pending matters.

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 nothing have been recovered from conscious possession of the petitioners and the name of the petitioners have been transpired on the basis of disclosure made by apprehended co-accused person namely Shambhu Rai, 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 Excise Court No. 1-cum-Additional District & Sessions Judge, Vaishali at Hajipur in connection with Ganga Bridge PS. Case No. 52 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.

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(Rajesh Kumar Verma, J)

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