

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40085 of 2025

Arising Out of PS. Case No.-128 Year-2025 Thana- SONEPUR District- Saran

1. Arbind Kumar S/o Domar Rai Resident of Alipur, P.S Sonepur, Distt. Saran
2. Guddu Kumar @ Chedi S/o Jagarnath Rai Resident of Village- Rahimpur, P.S. Sonepur, Distt. Saran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Suman Kumar Verma
For the Opposite Party/s : Mr.Md. Nazir Ansari

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 25-07-2025 Heard learned counsel for the petitioners and learned Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in a case in connection with Sonepur P.S. Case No. 128 of 2025 dated 16.02.2025 for the offence/s punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 265 litres of illicit country made liquor was recovered near the bank of the Ganga river.

4. Learned counsel for the petitioners has submitted that the petitioners are innocent and have falsely been implicated in this case. Local Chowkidar disclosed the name of



the petitioners. No incriminating material has been recovered from the conscious possession of the petitioners. The recovery has been made from an open place which is accessible to anyone. The petitioners have no concern with the alleged recovery. The petitioner no.1 has one criminal antecedent and the petitioner no.2 has two criminal antecedents as stated in para-6 of the supplementary affidavit filed on behalf of the petitioners. The co-accused person has already been granted anticipatory bail by this Court vide order dated 11.07.2025 passed in Cr. Misc. No. 30317 of 2025. Learned counsel has submitted that no case is made out against the petitioners. Learned Counsel has relied on the judgment of Full Bench of Hon'ble Patna High Court in the case of **Ram Vinay Yadav vs. State of Bihar 2019 (2) PLJR 1089**. The Full Bench in the case of **Ram Vinay Yadav (supra)** has held that an application for anticipatory bail in a case arising out of Bihar Excise and Prohibition Act can be maintained, despite the bar under Section 76 (2) of the Act, if on the basis of allegation made in the FIR, no offence under the said provision is made out.

5. Learned A.P.P. for the State has vehemently opposed the prayer for anticipatory bail of the petitioners by submitting that the bar of Section 76(2) of the Act applies in this



case.

6. Considering the aforesaid facts and circumstances of the case as well as the material available on record, let the above named petitioners, in the event of their arrest/surrender within a period of six weeks from today, be enlarged on anticipatory bail on furnishing bail-bond of Rs. 20,000/- (Rupees twenty thousand) each with two sureties of the like amount each to the satisfaction of the learned court concerned, Saran in connection with Sonapur P.S. Case No. 128 of 2025, subject to conditions as laid down under section 482(2) of the B.N.S.S., with further condition:-

(i) The petitioners are directed to remain physically present before the learned Court below on each and every date, failing which on two consecutive dates without reasonable cause, the bail bonds of the petitioners are liable to be cancelled.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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