

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.36250 of 2025

Arising Out of PS. Case No.-59 Year-2025 Thana- Lakho District- Begusarai

1. SHRI OM KASHYAP @ OM KASHYAP S/O DILIP KUMAR JHA R/o Muhalla - Congress Office Road, Subhash Nagar, P.s. - Purnia Sadar, Distt.- Purnia
2. Anant Singh @ Anant Kumar Singh @ Anant Kumar S/o Pintu Singh R/o vill - Khanjapur, P.s. - Cheriabariyarpur, Distt.- Begusarai

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Pushpendra Kumar Singh, Advocate
For the Opposite Party/s : Mr.Kumar Ranjit Ranjan, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 25-06-2025 Heard Mr.Pushpendra Kumar Singh, learned counsel for the petitioners and Mr.Kumar Ranjit Ranjan, learned Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in connection with Lakho P.S.Case No.59 of 2025,FIR dated 30.03.2025 registered for the offences punishable under Sections 30(a),32(3),41(1) of Bihar Prohibition and Excise (Amendment) Act, 2022.

3. Recovery is of 11.500 liters of illegal foreign liquor.

4. Learned counsel for the petitioners submits that petitioner No.1 has clean antecedent and petitioner No.2 carries



four more cases other than the present one and he is on bail in all the pending matters and they have falsely been implicated in the present case. It appears from the FIR as well as the seizure list that nothing has been recovered from conscious possession of the petitioner rather the recovery has been made from the house of Munni Devi and altogether 11.500 liters of illegal foreign liquor was recovered from the house of Munni Devi and petitioners have been made accused in the present case merely on the ground that petitioner No.2 is son-in-law of Munni Devi and petitioner No.1 is neighbour of Munni Devi and they have no concern at all with the alleged recovery of illicit liquor or the present occurrence. There is non-compliance with mandatory procedure prescribed for recovery under Section 100 of Cr.P.C. No case, whatsoever, would be made out against the petitioners under the Bihar Prohibition and Excise Act.

5. Learned A.P.P. for the State has vehemently opposed the prayer for 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) PLJR 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 nothing has been recovered from conscious possession of the petitioners rather the recovery has been made from the house of Munni Devi, 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 Judge-I, Begusarai in connection with Lakho P.S.Case No.59 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:-

(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 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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