

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.36380 of 2025

Arising Out of PS. Case No.-120 Year-2025 Thana- MADHAURAH District- Saran

1. Sannu Nut @ Sonu Nut Son of Daharu Nut village - Wajit Bharta, P. S - Marhowrah, District - Saran
2. Kali Nut son of Bilat Nut @ Bilar Nut village - Wajit Bharta, P. S - Marhowrah, District - Saran

... .. Petitioner/s

Versus

The State of Bihar bihar

... .. Opposite Party/s

Appearance :

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

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

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 28-07-2025 Heard Mr. Hemant Kumar, 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 Marhowrah P.S. Case No. 120 of 2025, F.I.R dated 09.03.2023 registered for the offences punishable under Section 30(a) of Bihar Prohibition and Excise Act.

3. Recovery is of 50 liters of country made liquor.

4. Learned counsel for the petitioners submits that on the basis of secret information, the petitioners have falsely been implicated in the present case. It appears from the F.I.R. and the seizure list that nothing has been recovered from the



conscious possession of the petitioners rather the recovery has been made from the village Bajidbhorha Chanwar, which is an open space and the petitioners have no concern at all with the alleged recovery of liquor and it appears from the F.I.R., that informant had not disclosed that on who has given the secret information. There is non-compliance with mandatory procedure prescribed for recovery under Section 100 of Cr.P.C / Section 103 of Bhartiya Nagarik Suraksha Sanhita. 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 and further submits that petitioner No.1 carries 5 criminal antecedent and petitioner No.2 carried 6 criminal antecedent other than the present case but fairly submits that they are on bail in all the cases.

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 that nothing has been recovered from conscious possession of the petitioners and their name has transpired on the basis of secret information, 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, Saran at Chapra, in connection with Marhowrah P.S. Case No. 120 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 his absence on two consecutive dates without sufficient reason, his 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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