

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37926 of 2025

Arising Out of PS. Case No.-240 Year-2024 Thana- MAJORGANJ District- Sitamarhi

1. Subhash Ray @ Ramsubhash Rai S/O Sonafi Ray R/O village - Belwa Parari, P.S.- Majorganj, District - Sitamarhi
2. Dharamvir Yadav @ Dharmvir Kumar @ Dharamvir Kumar Yadav S/O Vinod Ray @ Rambinog Ray R/O village - Belwa Parari, P.S.- Majorganj, District - Sitamarhi

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr. Anish Chandra, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 25-06-2025 1. Heard learned counsel for the petitioners and learned A.P.P. for the State.

2. The petitioners apprehend their arrest in a case registered for the offence punishable under Section 317(5) of the BNS and Section 30(a) of the Bihar Prohibition and Excise (Amendment) Act, 2022.

3. Learned counsel for the petitioners submits that petitioners are persons with clean antecedent.

4. Allegation is of recovery of 135 litres of liquor from a car and Sandip Kumar was apprehended.

5. Learned counsel for the petitioners submits that petitioners were not arrested from the spot, as such, nothing was recovered from their conscious possession. It is further



submitted that petitioners are not the owner of the seized car and they came to be implicated based on the confessional statement of apprehended accused in police custody which does not have any evidentiary value in the eye of law. It is next submitted that after amendment in the Excise Act in the year 2018, the concept of deemed possession and presumed offender has been done away with. It is also submitted that once an accused is implicated in a case relating to excise the police start implicating mechanically without holding proper investigation of the case.

6. Learned A.P.P. for the State opposes the prayer for anticipatory bail of the petitioners.

7. Considering the submissions made by the learned counsel for the petitioners, let the petitioners above-named, in the event of their arrest or surrender before the learned Court below within a period of six weeks from today, be released on provisional anticipatory bail on furnishing bail bonds of Rs.500/- (Rupees Five Hundred) each with two sureties of the like amount each to the satisfaction of the learned court below where the case is pending/successor court in connection with Majorganj P.S. Case No. 240 of 2024, subject to the conditions as laid down under Section 482 (2) of the BNSS.



8. It is made clear that thereafter the learned trial court shall verify the criminal antecedent of the petitioners and if it is found that petitioners have antecedent of even one case, it would be presumed that petitioners had concealed their antecedent before this Court at para 3 of the anticipatory bail application in that event the provisional anticipatory bail order shall not be confirmed but if it is found on verification that petitioners are persons with clean antecedent in that event the provisional anticipatory bail order shall be confirmed forthwith.

(Satyavrat Verma, J)

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