

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44807 of 2025

Arising Out of PS. Case No.-326 Year-2025 Thana- Excise P.S. District- Gaya

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1. Md. Kamil Khan S/o- Rahmat Ali Khan Vill- Sandih Bhadya PS- Barachatty Dist- Gaya
 2. Md. Tausif Raza S/o- Md. Shamin Quraishi Village- Bind Mohalla, Sahadat Chowk Ps- Chatra Sadar Dist- Chatra State- Jharkhand

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Priya Ranjan, Advocate

For the Opposite Party/s : Mr. Rana Randhir Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 24-07-2025 Heard Mr. Priya Ranjan, learned counsel for the

petitioners and Mr. Rana Randhir Singh, learned Additional

Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in
connection with Excise P.S. Case No. 326 of 2025, F.I.R dated
25.03.2025 registered for the offences punishable under
Sections 30(a) and 32(3) of Bihar Prohibition and Excise
Amendment Act, 2018.

3. Recovery is of 2100 liters of illicit liquor.

4. Learned counsel for the petitioners submits that
the petitioners have clean antecedent and they have falsely been
implicated in the present case. He further submits that the



allegation as alleged in the F.I.R is false and fabricated. 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 the recovery has been made from the pickup van in question and these petitioners are neither the owner nor the driver of the said pickup van in question. They have been made accused in the present case merely on the ground that these petitioners were apprehended at the place of occurrence and they have assaulted the police personnel and fled away from the place of occurrence. He further submits that in fact, the petitioners were asked by the police personnel to become the witness of the present case but the petitioners have refused to do so therefore, they have been made accused in this case. 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. 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.

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 the petitioners have clean antecedent, 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 Special Judge Excise, Court No. III, Gaya, Bihar in connection with Excise P.S. Case No. 326 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 their absence on two consecutive dates without sufficient reason, their bail bond shall be cancelled by the Court below.

ii. If the petitioners tampers 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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