

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46218 of 2025

Arising Out of PS. Case No.-61 Year-2025 Thana- RAGHUNATHPUR District- Siwan

1. Shivdas Singh S/o- Kailash Singh Resident of Village- Santhi PS- Raghunathpur, Dist- Siwan
2. Nikita Devi W/o- Kallu Singh Resident of Village- Santhi PS- Raghunathpur, Dist- Siwan
3. Ranju Devi W/o- Rahul Singh Resident of Village- Santhi PS- Raghunathpur, Dist- Siwan

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr. Nawal Kishore Prasad, A.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 21-07-2025 Heard Mr. Rajiv Kumar, learned counsel for the petitioners and Mr. Nawal Kishore Prasad, learned Additional Public Prosecutor for the State.

2. After some arguments, learned counsel for the petitioners seek permission to withdraw the application with respect to petitioner no. 1, namely, Shivdas Singh.

3. Permission is accorded.

4. Accordingly, this applications stands dismissed as withdrawn with respect to petitioner no. 1, namely, Shivdas Singh.

5. The petitioner nos. 2 and 3 are apprehending their



arrest in connection with A.B.P. No. 955 of 2025 arising out of Raghunathpur P.S. Case No. 61 of 2025, F.I.R. dated 13.03.2025 for the offences punishable under Sections 191(2), 191(3), 190, 115(2), 109, 132, 351(2) and 352 of the Bharatiya Nyaya Sanhita, 2023 and Sections 30(a) and 45 of Bihar Prohibition and Excise Act.

6. Recovery is of 40 litres of country made liquor and mobile phones.

7. Learned counsel for the petitioners submits that petitioners have clean antecedent and they have falsely been implicated in the present case. The allegation as alleged in the F.I.R. is false and fabricated and the petitioners have not committed any offence as alleged in the F.I.R. Although, the petitioners are named in the F.I.R. but from a bare perusal of the F.I.R., it appears that there is no specific allegation of any assault or overt act attributed against them. The specific allegation of assault has been attributed against co-accused persons, namely, Shivdas Singh and Kallu Singh @ Rajwant Singh @ Rohit Singh and there is no specific allegation against both the petitioners and it appears from the F.I.R. itself that nothing has been recovered from conscious possession of the petitioners. 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.

8. 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.

9. 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.

10. Considering the aforesaid facts that the petitioner nos. 2 and 3 have clean antecedent and there is no specific allegation in the F.I.R. against them, let the petitioner nos. 2 and 3, 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 No. II, Siwan in connection with Raghunathpur P.S. Case No. 61 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. Petitioner nos. 2 and 3 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 petitioner nos. 2 and 3 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 petitioner nos. 2 and 3 and in case at any stage it is found that the petitioner nos. 2 and 3 have concealed their criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner nos. 2 and 3. 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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