

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44586 of 2025

Arising Out of PS. Case No.-368 Year-2024 Thana- KOTWA District- East Champaran

1. Amod Paswan S/O Ram Bharos Paswan @ Rambharosh Pasvan R/O Village- Siridiya (Sirisiya), P.S- Piprakothi, Dist.- East Champaran, Motihari.
2. Satendra Yadav S/O Chandra Bhushan Prasad Yadav R/O Village- Siridiya (Sirisiya), P.S- Piprakothi, Dist.- East Champaran, Motihari.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Priyesh Kumar
For the Opposite Party/s : Mr.Parmanand Prasad

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 01-08-2025 Heard learned counsel for the petitioners and learned Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in a case in connection with Kotwa P.S. Case No. 368 of 2024 dated 30.12.2024 registered for the offences punishable u/ss 274, 275 read with Section 3(5) of the B.N.S. and Section 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 145 litres of Spirit was recovered from the paddy straw of the co-accused, Asesar Mahto.

4. Learned counsel for the petitioners has submitted that the petitioners are innocent and have falsely been



implicated in this case. The petitioner no. 1 has three antecedents whereas the petitioner no. 2 has two criminal antecedents as stated in para 3 of the bail petition. Nothing has been recovered from the conscious possession of the petitioners hence, no case is made out against the petitioners. Learned Counsel has relied on the judgment of Full Bench of Hon'ble Patna High Court in the case of **Ram Vinay Yadav vs. State of Bihar reported in 2019 (2) PLJR 1089**. The Full Bench in the case of **Ram Vinay Yadav (supra)** has held that an application for anticipatory bail in a case arising out of Bihar Excise and Prohibition Act can be maintained, despite the bar under Section 76 (2) of the Act, if on the basis of allegation made in the FIR, no offence under the said provision is made out.

5. Learned A.P.P. for the State has vehemently opposed the prayer for anticipatory bail of the petitioners by submitting that the bar of Section 76(2) of the Act applies in this case.

6. Considering the aforesaid facts and circumstances of the case as well as the nature of allegation against the petitioners, let the above named petitioners, in the event of their arrest/surrender within a period of six weeks from today, be enlarged on bail on furnishing bail-bond of Rs. 20,000/- (Rupees



Twenty thousand) each with two sureties of the like amount each to the satisfaction of learned court concerned, East Champaran at Motihari in connection with Kotwa P.S. Case No. 368 of 2024, subject to conditions as laid down under Section 482(2) of the B.N.S.S, with the condition:-

(I). The petitioners are directed to remain physically present before the learned Court below on each and every date, failing which on two consecutive dates without reasonable cause, the bail bonds of the petitioners are liable to be cancelled.

7. This application stands allowed.

(Chandra Prakash Singh, J)

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