

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48409 of 2025**

Arising Out of PS. Case No.-336 Year-2024 Thana- SAHEBPUR KAMAL District-
Begusarai

-
1. Mithlesh Kumar @ Mithilesh Yadav S/o Karelal Yadav @ Rajendra Yadav
 2. Raushan Kumar S/o Lukho Yadav @ Ganpat Yadav
 3. Rishideo Kumar @ Rishideo Yadav S/o Vishnudev Yadav @ Vishundeo Yadav
- All R/o Vill- Gyantol, Ward No. 12, Town, P.O. and P.S.- Sahebpur Kamal,
Distt- Begusarai, Bihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Saket Kumar, Advocate
For the Opposite Party/s : Mr.Lakshmi Kant Sharma, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 06-08-2025 Heard Mr.Saket Kumar, learned counsel for the

petitioners and Mr.Lakshmi Kant Sharma, learned Additional

Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in
connection with Sahebpur Kamal P.S.Case No.336 of 2024,
FIR dated 08.10.2024 registered for the offences punishable
under Sections 30(a) and 30(d) of Bihar Prohibition and Excise
Act.

3. Recovery is of 04 liters of illegal country made
liquor.

4. Learned counsel for the petitioners submits that



petitioner Nos.1 and 3 carry one more case other than the present one and petitioner No.2 has clean antecedent and they have falsely been implicated in the present case. It appears from the FIR as well as seizure list that nothing has been recovered from conscious possession of the petitioners rather the recovery has been made from abandoned place. The name of the petitioners has been transpired during investigation on the basis of the disclosure made by the local Chaukidar and except the aforesaid, no other material has come during investigation against the petitioners to suggest the involvement of the petitioners in the present occurrence. There is non-compliance with mandatory procedure prescribed for recovery under Section 100 of Cr.P.C. No case, whatsoever, would be made out against the petitioners under the Bihar Prohibition and Excise Act.

5. Learned A.P.P. for the State has vehemently opposed the prayer for 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) PLJR 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, nothing has been recovered from conscious possession of the petitioners and name of the petitioners has been transpired during investigation on the basis of the disclosure made by the local Chaukidar, 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 learned Exclusive Special Judge Excise Act-II, Begusarai in connection with Sahebpur Kamal P.S.Case No.336 of 2024, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure 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 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)

Nitesh/-

U		T	
---	--	---	--

