

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46102 of 2025

Arising Out of PS. Case No.-204 Year-2024 Thana- RAJEPUR District- East Champaran

1. Bablu Sahani @ Babloo Sahni @ Bablu S/O Late Ayodhi Sahani
 2. Guddu Sahani S/O Suresh Sahani
- Both are R/O Vill.- Ismaila, P.S.- Rajepur, Dist.- East Champaran
... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Rahul Singh, Advocate
For the Opposite Party/s : Mr.Nitya Nand Tiwary, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 31-07-2025 Heard Mr.Rahul Singh, learned counsel for the

petitioners and Mr.Nitya Nand Tiwary, learned Additional

Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in
connection with Rajepur P.S.Case No.204 of 2024,FIR dated
06.10.2024 registered for the offences punishable under Section,
274,275,3(5) B.N.S. and Section 30(a) of Bihar Prohibition and
Excise Act.

3. Recovery is of 60 liters of country made liquor.

4. Learned counsel for the petitioners submits that
petitioner No.1 carries one more case other than the present one
and petitioner No.2 has clean antecedent. The allegation as
alleged in the FIR is false and fabricated and the petitioners
have not committed any offence as alleged in the FIR. The name



of the petitioners has been transpired during investigation on the basis of the disclosure made by the local Chaukidar. It appears from the seizure list itself that the recovery has been made from the field of one Dhupai Sahani and petitioners have no concern at all with the alleged recovery of illicit liquor or Dhupai Sahani. 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 and nothing has



been recovered from conscious possession of the petitioners rather the recovery has been made from the field of one Dhupai Sahani, 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 Excise Court No.-III, East Champaran, Motihari in connection with Rajepur P.S.Case No.204 of 2024, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure/Section 482(2) of BNSS,2023 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)

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