

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46925 of 2025

Arising Out of PS. Case No.-112 Year-2025 Thana- SRINAGAR District- West Champaran

1. Dhanlal Yadav S/o Late Amerika Yadav R/o Village- Dhabiya, Ward No. 07, P.S.- Srinagar, District- West Champaran
2. Chansi Yadav S/o Lorik Yadav R/o Village- Bhawanipur, Dusa Tola, Ward No. 05, P.S.- Srinagar, District- West Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr. Ramesh Chandra, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 11-08-2025 Heard Mr. Sujeet Kumar, learned counsel for the petitioner and Mr. Ramesh Chandra, learned Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest connection with Srinagar P.S. Case No. 112 of 2025, F.I.R. dated 14.05.2025 registered for the offences punishable under Section 30(a) of the Bihar Prohibition & Excise Act.

3. Recovery is of 15.9 liters of country made liquor.

4. Learned counsel for the petitioners submits that the petitioner no. 1 carries one more case other than the present one in which petitioner no. 1 has been acquitted by the learned Court below and petitioner no. 2 having clean antecedent and they



have falsely been implicated in the present case. In fact, nothing has been recovered from the house of petitioner no. 1 and the behind the house of petitioner no. 2. It appears from the F.I.R. as well as seizure list that the F.I.R. was instituted on 14.05.2025 at 08:30 P.M. and it appears from the seizure list that the seizure list was prepared at 06:10 P.M. which suggests that before lodging of the F.I.R. the seizure list was prepared and apart from that the F.I.R. number is mentioned in the seizure list which suggests that the petitioners have been falsely implicated in the present case due to ulterior motive and apart from that the information with regard to recovery was furnished by the local choukidar. Therefore, the recovery cannot be attributed to the petitioners. There is non-compliance with mandatory procedure prescribed for recovery under Section 100 of Cr. P.C./ Section 103 of BNSS, 2023 No case, whatsoever, would be made out against the petitioners under the Bihar Prohibition and Excise Act.

5. 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. He further submits that



recovery has been made from the house of the petitioner no. 1 and behind the house of petitioner no. 2 and apart from that petitioner no. 1 carries one more case but fairly submits on the basis of paragraph-3 of the bail petition that he has been acquitted by the learned Court below.

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 and the fact that the seizure list was prepared before lodging of the F.I.R. and in the seizure list, F.I.R. number is mentioned, 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 Court-II, Bettiah, West Champaran in connection with Srinagar PS. Case No. 112 of 2025, 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:-

1. 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 bonds shall be cancelled by the Court below.

2. 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.

3. 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 antecedents, 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.

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(Rajesh Kumar Verma, J)

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