

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48304 of 2025

Arising Out of PS. Case No.-48 Year-2025 Thana- SHIKARGANJ District- East Champaran

1. Awanish Kumar S/O Santosh sah Resident of Village- Sirauna, P.S- Shikarganj, District- East Champaran.
2. Sanjay Sah S/O Shyamnath Sah @ Bhadori Sah Resident of Village- Sirauna, P.S- Shikarganj, District- East Champaran.
3. Suresh Sah S/O Shyamnath Sah @ Bhadori Sah Resident of Village- Sirauna, P.S- Shikarganj, District- East Champaran.
4. Ramesh Sah S/O Shyamnath Sah @ Bhadori Sah Resident of Village- Sirauna, P.S- Shikarganj, District- East Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr. Jagdhar Prasad, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 06-08-2025 Heard Mr. Abhishek Kumar, learned counsel for the petitioners and Mr. Jagdhar Prasad, learned Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in connection with Shikarganj P.S. Case No. 48 of 2025, F.I.R dated 15.02.2025 registered for the offences punishable under Sections 126(2), 132, 352 and 3(5) of the Bhartiya Nyaya Sanhita, 2023 and Section 45 of Bihar Prohibition and Excise Act, 2016.

3. According to prosecution case, some miscreants



in a drunken state abused the pedestrians and doing ruckus and police tried to stop them then they also abused the police party.

4. Learned counsel for the petitioners submits that the petitioners have clean antecedent and they have falsely been implicated in the present case. He further submits that as per allegation in the F.I.R the petitioners have abused the police party and fled away from the place of occurrence and six people were identified by the local chowkidar. He further submits that the allegation as alleged in the F.I.R. is false and fabricated and the petitioners have not committed any offences as alleged in the F.I.R. In fact the petitioners were not present at the place of occurrence and due to some previous enmity the local chowkidar has disclosed their names. 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.

5. 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.



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 that the petitioners have clean antecedent and they have been identified by the local chowkidar, 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 the learned Exclusive Special Excise Court No.- 3, Civil Court, East Chamaparan at Motihari, Bihar in connection with Shikarganj P.S. Case No. 48 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. 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 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 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.

Vanisha/- **(Rajesh Kumar Verma, J)**

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

