

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48449 of 2025

Arising Out of PS. Case No.-459 Year-2019 Thana- TAJPUR District- Samastipur

1. Sanjeet Kumar S/o Teni Ray R/o vill - Kasbeahar, P.S.- Tajpur, Distt.- Samastipur
2. Sohan Kumar Ray @ Sohan Kumar S/o Krishana Ray R/o vill - Kasbeahar, P.S.- Tajpur, Distt.- Samastipur
3. Chanchal Kumar S/o Pramod Ray R/o vill - Kasbeahar, P.S.- Tajpur, Distt.- Samastipur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr. Ashok Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 06-08-2025 Heard Mr. Ajay Kumar, learned counsel for the petitioners and Mr. Ashok Kumar Singh, learned Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in connection with Tajpur P.S. Case No. 459 of 2019, F.I.R dated 15.12.2019 registered for the offences punishable under Section 30(a) of Bihar Prohibition and Excise Act.

3. Recovery is of 168.300 liters of foreign liquor.

4. Learned counsel for the petitioners submits that the petitioners have clean antecedent and have falsely been implicated in the present case. He further submits that the



allegation as alleged in the F.I.R is false and fabricated. He further submits that it appears from the F.I.R that nothing has been recovered from the conscious possession of the petitioners rather the recovery has been made from field. It appears from the FIR that on the basis of secret information, the petitioners have been made accused in the present case and the police has submitted final form in favour of the petitioners on 14.12.2022 but the learned court below in mechanical manner has been pleased to take cognizance against the petitioners vide order dated 11.01.2024. 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 petitioner 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.

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, nothing has been the petitioners have clean antecedent and police after investigation has submitted charge sheet in favour of the petitioners but the learned court below has taken cognizance against the petitioners, 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) with two sureties of the like amount each to the satisfaction of the learned Special Judge Excise Court-2nd, Samastipur in connection with Tajpur P.S. Case No. 459 of 2019, 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, his 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.

(Rajesh Kumar Verma, J)

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