

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.52593 of 2025

Arising Out of PS. Case No.-160 Year-2025 Thana- TURKAULIYA District- East Champaran

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1. Bipin Sahani @ Bipeen Sahani S/o Krishna Sahani R/o Village-Jaisinghpur Chiutahi, P.S- Turkauliya, District- East Champaran
 2. Ashok Sahani S/o Krishna Sahani R/o Village-Jaisinghpur Chiutahi, P.S- Turkauliya, District- East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Ms. Ranjana Srivastava, Advocate

For the Opposite Party/s : Mr. Bhanu Pratap Singh, A.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 13-08-2025 Heard Ms. Ranjana Srivastava, learned counsel for the petitioners and Mr. Bhanu Pratap Singh, learned Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in connection with Turkauliya P.S. Case No. 160 of 2025, FIR dated 15.04.2025 registered for the offences punishable under Sections 30(a) and 41(1) of Bihar Prohibition & Excise (Amendment) Act.

3. Recovery is of 15 litres of illicit country made liquor.

4. Learned counsel for the petitioners submits that the petitioners have 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. It appears from the FIR as well as the seizure list that nothing has been recovered from conscious possession of the petitioners rather the recovery has been made from the corn field which was situated near the house of the petitioners. The name of the petitioners have been transpired on the basis of disclosure made by local people and except the aforesaid, no other cogent material has come during investigation against the petitioners to suggest the involvement of the petitioner in the present occurrence. 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. 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, petitioners have clean antecedent, nothing has been recovered from conscious possession of the petitioners and name of the petitioners have been transpired on the basis of the disclosure made by local people, 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 Special Judge, Excise Court No. 1, East Champaran at Motihari in connection with Turkauliya P.S. Case No. 160 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:-

(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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