

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55675 of 2025

Arising Out of PS. Case No.-47 Year-2025 Thana- Patauna District- Madhubani

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1. Kamlu Sharma @ Kamlu Kumar Sharma S/o- Jivachh Sharma, R/o - Parsouni, P.S - Patauna, District – Madhubani.
 2. Murari Sahni @ Madan Murari Sahni S/o- Yogendra Sahni, R/o - Parsouni, P.S - Patauna, District – Madhubani.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Jha, Advocate.

For the Opposite Party/s : Ms. Indu Kumari Srivastava, APP.

CORAM: HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL ORDER

2 01-09-2025 Learned counsel for the petitioners submits that petitioner no.1, namely, Kamlu Sharma @ Kamlu Kumar Sharma has been arrested, therefore, he seeks permission to withdrawn the present Cr. Misc. Application on behalf of petitioner no.1

2. Permission, as prayed for, is granted.

3. Accordingly, the present Cr. Misc. Application stands dismissed as withdrawn for petitioner no.1.

4. Heard learned counsel for the petitioner no.2 and learned A.P.P. for the State.

5. The petitioner no.2 apprehends his arrest in connection with Patauna P.S. Case No.47 of 2025 instituted



under Sections 274, 275, 3(5) of B.N.S. and Section 30(a) of Bihar Prohibition and Excise Act.

3. As per the prosecution case, there is recovery of 18 liter Nepali country made liquor (60 bottles of 300 ml. each) from dicky and beneath the seat of motorcycle bearing Registration No. BR-30-H-1829. It is alleged that petitioner no.2 alongwith another co-accused person managed to flee away from the spot who were identified by the *Chaukidar* and other villagers.

4. Learned counsel for the petitioner no.2 submits that petitioner is innocent and has falsely been implicated in this case only on the basis of disclosure made by the local *Chaukidar* and villagers. He further submits that petitioner no.2 has no concern with the alleged seized liquor and the motorcycle from which the liquor was recovered. Learned counsel submits that there is no compliance of mandatory provision of law in preparing the seizure list. He further submits that no incriminating material has been recovered from the conscious possession of the petitioner no.2. Learned counsel submits that petitioner no.2 has been falsely implicated in 6 criminal cases, out of which 4 criminal cases is of Excise Act and he is on bail in all the cases.



5. Learned A.P.P. for the State opposes the prayer for anticipatory bail and submits that petitioner no.2 is a habitual offender and he has got 6 criminal antecedents, out of which, 4 cases is of similar nature. The petitioner no.2 was riding motorcycle from which 18 liter illicit liquor was recovered. Therefore, petitioner does not deserve the privilege of anticipatory bail. He further submits that in view of Full Bench decision of this Court rendered in the case of **Ram Vinay Yadav vs. The State of Bihar** reported in **2019(2) P.L.J.R. 1089 (F.B.)** *prima facie* case is made out against the petitioner, therefore, the anticipatory bail is not maintainable.

6. Considering the facts and circumstances of the case and submissions of learned counsel for the parties as well as the criminal antecedents of similar nature of the petitioner and allegation against the petitioner, this Court is not inclined to grant anticipatory bail to the petitioner. Accordingly, his prayer for anticipatory bail is, hereby, rejected.

(Sunil Dutta Mishra, J)

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