

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.76190 of 2024

Arising Out of PS. Case No.-169 Year-2024 Thana- ISUAPUR District- Saran

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1. Nand Kishore Sah S/o Late Ganesh Sah Village- Mahuli Ps- Isuapur Dist- Saran at Chapra
 2. Suraj Kumar S/o- Nand Kishore Sah Village- Mahuli Ps- Isuapur Dist- Saran at Chapra

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rabindra Kumar Tiwari, Adv.

For the Opposite Party/s : Ms. Veena Kumari Jaiswal, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 07-02-2025 Heard learned counsel for the petitioners and learned Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in a case in connection with Isuapur P.S. Case No. 169 of 2024 dated 12.07.2024 registered for the offences punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 45.75 litres of illicit foreign liquor was recovered from the hut which was situated behind the house of the co-accused, Sanjeev Sah.

4. Learned counsel for the petitioners have submitted that the petitioners are innocent and have falsely been implicated in this case. No incriminating material has been



recovered from the conscious possession of the petitioners. The recovery was made from an open place that was accessible to anyone. The apprehended co-accused person disclosed the name of the petitioners. The petitioner no.1 has three criminal antecedents and petitioner no.2 has no criminal antecedent as stated in para 3 of the bail petition. The co-accused, Sanjeev Sah has been granted bail by a Bench of this Court vide order dated 27.08.2024 passed in Cr. Misc. No. 60945 of 2024. Learned counsel has submitted that no case is made out against the petitioners. Learned Counsel has relied on the judgment of Full Bench of Hon'ble Patna High Court in the case of **Ram Vinay Yadav vs. State of Bihar 2019 (2) PLJR 1089**. The Full Bench in the case of **Ram Vinay Yadav (supra)** has held that an application for anticipatory bail in a case arising out of Bihar Excise and Prohibition Act can be maintained, despite the bar under Section 76 (2) of the Act, if on the basis of allegation made in the FIR, no offence under the said provision is made out.

5. Learned A.P.P. for the State has vehemently opposed the prayer for anticipatory bail of the petitioners by submitting that the bar of Section 76(2) of the Act applies in this case.



6. Considering the aforesaid facts and circumstances of the case as well as the material available on record, let the above named petitioners, in the event of their arrest/surrender within a period of six weeks from today, be enlarged on anticipatory bail on furnishing bail-bond of Rs. 20,000/- (Rupees twenty thousand) each with two sureties of the like amount each to the satisfaction of the learned court concerned, Saran at Chapra in connection with Isuapur P.S. Case No. 169 of 2024, subject to conditions as laid down under section 482(2) of the BNSS, with the condition:-

(i) That the petitioners are directed to remain physically present before the learned Court below on each and every date, failing which on two consecutive dates without reasonable cause, the bail bonds of the petitioners are liable to be cancelled.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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