

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.3343 of 2025**

Arising Out of PS. Case No.-777 Year-2024 Thana- FATUA District- Patna

1. Radheshyam Kumar Son of Late Kamla Sharan Singh @ Late Kamla Singh Resident of Village- Bari Ranipur, P.S.- Fatuha, District- Patna
2. Ramesh Yadav Son of Mahavir Yadav @ Mahavir Singh Resident of Village- Bari Ranipur, P.S.- Fatuha, District- Patna
3. Pasi yadav @ Sanjit Kumar @ Sanjeet Kumar Son of Devki Singh Resident of Village- Dumari Uttar Patti, P.S.- Fatuha, District- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr. Harish Kumar, Adv  
For the Opposite Party/s : Mr. Nitya Nand Tiwary, APP

**CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR**  
**ORAL ORDER**

2      15-02-2025                      Heard the learned Advocate for the petitioners and the learned APP for the State.

2. The petitioners apprehend their arrest in connection with Fatuha P.S. Case No. 777 of 2024, registered for the offences punishable under Sections 30(a), 30(d) of the Bihar Prohibition and Excise.

3. The allegation against the petitioners is of involved in manufacturing and trade of illicit wine. The police on a secret information conducted raid near the bank of *Punpun River*. However, noticing the police party three persons succeeded in fleeing away and one Rano Yadav was apprehend by the police.



On search, total 40 litres illicit Mahua liquor was recovered from the place of occurrence. The apprehend person disclosed the name of the petitioners as his accomplice.

4. Learned Advocate for the petitioners drawing the attention of this Court to F.I.R contended that the alleged recovery has been made from the bank of *Punpun river* which is an open place easily accessible to anyone. Barring the disclosure made by apprehended person there is no material suggesting the complicity of the petitioners in the crime. It is the contention of the petitioners that in fact on account of past criminal antecedent of the petitioners as has been disclosed in paragraph no. 3 of the bail application, their names have been implicated in this case at the instance of police. Neither the petitioners was having dominion or control over the place from where recovery has been made nor they have any concerned with the alleged recovered illicit wine. The petitioners undertake that they will fully co-operate in the proceeding of the Court.

5. On the other hand, learned counsel for the State has vehemently opposed the pre-arrest bail application and submitted that apart from criminal antecedent of the petitioners there is specific bar under Section 76(2) of the Bihar Prohibition and Amendment Act.



6. Regard being had to the submissions made on behalf of the parties and considering the fact that no recovery has been made from the conscious and constructive possession of the petitioners, moreover, except the disclosure made by apprehended persons there is no other material and as such the ingredients available on the record does not attract the provision of bar provided under Section 76(2) of the Bihar Prohibition and Excise Act, let the petitioners above named be released on bail, in the event of their arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, upon furnishing bail bonds of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned Special Judge Excise, Patna City, Patna in connection with Fatuha P.S. Case No. 777 of 2024, subject to the conditions laid down in Section 438(2) Cr.P.C. with the further condition that one of the bailors shall be the own/close family members of the petitioners.

**(Harish Kumar, J)**

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