

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.89099 of 2024

Arising Out of PS. Case No.-247 Year-2024 Thana- PUNPUN District- Patna

1. Bhuri Devi @ Sangita Devi @ Sanjeeta Devi Wife of Sunil Manjhi, D/O- Late Tahalu Manjhi Maike Address Village- Manorah, P.S.- Punpun, Distt.- Patna.
2. Pawan Manjhi Son of Late Loha Manjhi Maike Address Village- Manorah, P.S.- Punpun, Distt.- Patna.

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioners	:	Mr. Uday Singh, Advocate
For the Opposite Party	:	Mr. Dashrath Mehta, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 08-01-2025 Heard Mr. Uday Singh, the learned counsel for the petitioners and Mr. Dashrath Mehta, the learned Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in connection with Spl. Case No. 5117062240247, arising out of Punpun P.S. Case No. 247 of 2024, FIR dated 13.08.2024, registered for the offence punishable under Section 30(a) of the Bihar Prohibition and Excise Act.

3. Recovery is altogether of 45 litres of country made liquor.

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



as per allegation in the FIR, 15 litres of country made liquor has been recovered from petitioner no. 1 and 30 litres of country made liquor has been recovered from the house of petitioner no. 2. He further submits that it is evident from the FIR itself that nothing has been recovered from the conscious possession of the petitioners and petitioners have been made accused in the present case due to some ulterior motive. There is non-compliance with mandatory procedure prescribed for recovery under Section 100 of Cr.P.C. / Section 103 of the BNSS, 2023. No case, whatsoever, would be made out against the petitioners under the Bihar Prohibition and Excise Act.

5. The learned Additional Public Prosecutor for the State on the other hand 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. He further submits that petitioner no. 2 has one criminal antecedent of similar nature and petitioner no. 1 has clean antecedent. However, he fairly submits that petitioner no. 2 is on bail in the pending matter.

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 and circumstances and mainly the fact that nothing has been recovered from conscious possession of the petitioners, let the petitioners, above-named, in the event of their arrest or surrender before the learned trial Court within a period of thirty days from the date of receipt of the order, be released on anticipatory bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned Special Judge, Excise-2, Patna, where the case is pending in connection with **Spl. Case No. 5117062240247, arising out of Punpun P.S. Case No. 247 of 2024**, subject to the conditions as laid down under Section 438(2) of the Cr.P.C. / Section 482(2) of the BNSS, 2023 and also the following conditions:-

(i). Petitioners shall co-operate in the trial and shall be properly represented on each and every date fixed by the learned trial Court and shall remain physically present as



directed by the learned trial Court and on their absence on two consecutive dates without sufficient reason, their bail bond shall be cancelled by the learned trial Court.

(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 learned trial Court 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 learned trial Court 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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