

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.83928 of 2025

Arising Out of PS. Case No.-628 Year-2025 Thana- ARA NAGAR District- Bhojpur

1. Niraj Yadav @ Niraj Kumar S/o Ashok Yadav @ Ashok Kumar R/o Village - Bhaluhipur, P.S.- Ara Town, District - Bhojpur
2. Bhuwar Yadav @ Bhuar Yadav S/o Ashok Yadav @ Ashok Kumar R/o Village - Bhaluhipur, P.S.- Ara Town, District - Bhojpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Diwakar, Advocate
	:	Ms. Saheeba No.2, Advocate
	:	Ms. Priya Kumari, Advocate
	:	Mr. Deepak Kumar, Advocate
For the State	:	Mr. Bharat Bhushan, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 17-12-2025 Heard the parties.

2. The petitioners are apprehending their arrest in connection with Ara Town P.S. Case No. 628 of 2025 for the offence under sections 30(a) of the Bihar Prohibition and Excise Act, lodged on 12.10.2025 by the informant, Rajeshwar Prasad.

3. As per the prosecution story, the Police on secret information, raided a place and in the presence of locals, 60 liter Mahua recovered/seized. The locals gave the name of Niraj Yadav and Bhuwar Yadav. This led to the FIR.

4. Learned counsel for the petitioners submit that they are brothers, due to enmity, named. Recovery/seizure is from an



open place, only because of criminal antecedent got implicated. Last submission is that without accepting the allegation or outcome of the petition the petitioners intend to pay Rs.5,000/- each (totaling Rs.10,000/-) by Demand Draft issued by the local branch of the State Bank of India/any Nationalized Bank to the District Legal Services Authority, Bhojpur at Ara for the purchasing of flower pots in the Civil Court Campus, Bhojpur at Ara.

5. Further, learned counsel for the petitioner relied on the judgment of the Full Bench of Hon'ble Patna High Court in the case of **Ram Vinay Yadav vs. State of Bihar** reported in **2019 (2) PLJR 1089** wherein it has been 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.

6. Learned APP opposes the prayer submitting that petitioner no.1 has criminal antecedent.

7. Taking into account the submissions of the parties and the judgment in the case of **Ram Vinay Yadav (supra)**, as also that nothing has been recovered from their conscious



possession rather from an open place, an undertaking has been given that they shall be diligently appearing in trial, in that background, this Court is inclined to extend them the privilege of anticipatory bail with conditions subject to payment of Rs.5,000/- each (totaling Rs.10,000/-) by Demand Draft issued by the local branch of the State Bank of India/any Nationalized Bank to the District Legal Services Authority, Bhojpur at Ara for the purchasing of flower pots in the Civil Court Campus, Bhojpur at Ara and the receipt of the expenditure shall be submitted to the Trial Court by the District Legal Services Authority, Bhojpur at Ara.

8. Let the petitioner be released on bail in the event of arrest or surrender within a period of four weeks from the receipt of this order, on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of like amount each to the satisfaction of learned Exclusive Special Excise Court No.1, Bhojpur at Ara in connection with Ara Town P.S. Case No. 628 of 2025 subject to the following conditions:

(i) one of the bailor should be the family member/relative of the petitioners who shall provide official document to show his/her bona fide;

(ii) the petitioners shall appear on each and every date



before the Trial Court and failure to do so for two consecutive dates without plausible reason will entail cancellation of his bail bond by the Trial Court itself;

(iii) the petitioners shall appear before the concerned police station every month for six months to mark his attendance and after the end of the period, the certificate shall be submitted before the Trial Court failing which steps shall be taken for the cancellation of the bail bonds;

(iv) the petitioners shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of the bail bonds;

(v) the petitioners shall desist from committing any criminal offence again, failing which the State shall be at liberty to take steps for cancellation of his bail bonds.

9. Let a copy of the order be communicated to the learned Principal District & Sessions Judge, Bhojpur at Ara for perusal and needful.

(Rajiv Roy, J)

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