

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.86164 of 2025

Arising Out of PS. Case No.-274 Year-2025 Thana- SAUR BAZAR District- Saharsa

1. Jay Shankar Kumar @ Jai Shankar Kumar @ Jai Shankar Yadav Son of Ashok Yadav @ Ashok Yadav yadav R/o Village - Khera(Gadhiya), P.S. - Saur Bazar, Dist. - Saharsa.
2. Ram Pukar Yadav @ Rampukar Kumar @ Ram Pukar Yadab Son of Shatrughan Yadav R/o Village - Khera(Godhiya), P.S. - Saur Bazar, Dist. - Saharsa.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Amarnath Jha, Advocate
For the Opposite Party/s : Mr. Satyendra Prasad, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 18-12-2025 Heard the parties.

2. The petitioners are apprehending their arrest in connection with Saur Bazar P.S. Case No. 274 of 2025 for the offence under section 30(a) of the Bihar Prohibition and Excise Act lodged on 08.08.2025 by the informant, Aftab Alam.

3. As per the prosecution story, the informant alleged that on secret information, the Police reached near Gadhiya Chowk, some persons escaped leaving the plastic bags from which there is recovery/seizure of 85 liters of codeine cough syrup. This led to the FIR.

4. Learned counsel for the petitioner submits that a perusal of the FIR would show that it has been recovered from



an abandoned place and not from the conscious possession. Only because of criminal antecedent, the *chowkidar* named them. The last submission is that without accepting the allegation and/or the outcome of the present case, the petitioners intend to contribute Rs. 5,000/- each (totalling Rs. 10,000/-) to the District Legal Services Authority, Saharsa for the purchase of Journals/Bare acts in the Civil Court Campus of Saharsa Judgeship through Demand Draft issued by the local branch of the State Bank of India/any Nationalized Bank.

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 he 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 the fact that the recovery/seizure is not from the conscious possession rather from the plastic bags from the said place, in that background, this Court is inclined to extend him the privilege of anticipatory bail with conditions subject to payment of Rs. 5,000/- each (totalling Rs. 10,000/-) to the District Legal Services Authority, Saharsa for the purchase of Journals/Bare Acts in the Civil Court Campus of Saharsa Judgeship as undertaken by the learned counsel for the petitioners through Demand Draft issued by the local branch of the State Bank of India/any Nationalized Bank and the receipt of the expenditure shall be submitted to the trial Court by the DLSA, Saharsa.

8. Let the petitioners 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) each with two sureties of like amount each to the satisfaction of learned Exclusive Special (Excise) II, Saharsa in connection with Saur Bazar P.S. Case No. 274 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 their bail bond by the Trial Court itself;

(iii) the petitioners shall appear before the concerned police station every month for six months to mark their 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 their bail bonds.

9. A copy of the order be sent to the Principal District and Sessions Judge, Saharsa for his/her perusal and needful.

(Rajiv Roy, J)

Adnan/-

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