

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3986 of 2025

Arising Out of PS. Case No.-195 Year-2024 Thana- BADHAILA District- Rohtas

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1. Ajay Kumar Son of Halkohari Choudhary village- Noniadih, Ps- Baghalia, Dist- Rohtas
 2. Ritu Kumar son of Mohan Choudhary village- Noniadih, Ps- Baghalia, Dist- Rohtas

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Vinay Kumar Singh, Advocate

For the Opposite Party/s : Mr. Sanjay Kumar, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 12-02-2025 Heard Mr. Vinay Kumar Singh, learned counsel
for the petitioners and Mr. Sanjay Kumar, learned Additional
Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in
connection with Baghaila P.S. Case No. 195 of 2024, F.I.R dated
17.11.2024 registered for the offences punishable under Section
30(a) of Bihar Prohibition and Excise Act.

3. Recovery is of 30 liters of country made liquor.

4. Learned counsel for the petitioners submits that
the petitioners have clean antecedent and they have falsely been
implicated in the present case. He further submits that it appears
from the F.I.R. as well as seizure list that nothing has been



recovered from the conscious possession of the petitioners rather the recovery has been made from the agricultural field. He further submits that the name of the petitioners have been transpired in this case on the basis of the disclosure made by the local chaukidar and except the aforesaid no other cogent material has come during investigation to suggest the involvement of the petitioners in the present occurrence. He further submits that petitioners have no concern at all with the alleged recovery or the illicit liquor. There is non-compliance with mandatory procedure prescribed for recovery under Section 100 of Cr.P.C./Section 103 of the B.N.S.S., 2023 No case, whatsoever, would be made out against the petitioners under the Bihar Prohibition and Excise Act.

5. The learned Additional Public Prosecutor 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.

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, nothing has been recovered from conscious possession of the petitioners and the petitioners have clean antecedent, let the petitioners, above named, in the event of their arrest or surrender before the court below within a period of thirty days from the date of receipt of the order, be released on bail on furnishing bail bonds of Rs. 10,000/- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned Exclusive Special Judge, Excise Court No.1, Rohtas at Sasaram in connection with Baghaila P.S. Case No. 195 of 2024, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure/ Section 482(2) of BNSS, 2023 and with other following conditions:-

i. Petitioners shall co-operate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the court and on their absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

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 court below 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 court below 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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