

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20570 of 2026

Arising Out of PS. Case No.-802 Year-2025 Thana- DARIYAPUR District- Saran

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1. Dharmendra Mahto S/o Junarwi Mahto Resident of Village- Tarwa Magarpal, P.S.- Dariyapur, District- Saran
 2. Bittu Kumar S/o Dharmendra Mahto Resident of Village- Tarwa Magarpal, P.S.- Dariyapur, District- Saran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Nalin Kumar, Advocate

For the Opposite Party/s : Mr. Nand Kumar, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA

ORAL ORDER

2 31-03-2026 1. Heard learned counsel for the petitioners and learned A.P.P. for the State.

2. The petitioners apprehend their arrest in a case registered for the offence punishable under Section 30(a) of the Bihar Prohibition and Excise (Amendment) Act, 2022.

3. Learned counsel for the petitioners submits that petitioner no. 1 has antecedent of one case under the Excise Act and petitioner no. 2 is a person with clean antecedent and allegation is of recovery of 20 litres of liquor from the house of the petitioners.

4. Learned counsel for the petitioners submits that petitioners were not arrested from the spot, as such, nothing was recovered from their conscious possession. It is further



submitted that the house in question is a joint family property, as such, it cannot be alleged with certainty that it were the petitioners who had kept the liquor in the house or the liquor kept in the house was within their knowledge and after amendment in the Excise Act in the year 2018, the concept of deemed possession and presumed offender has been done away with. It is next submitted that petitioners came to be implicated at the instance of the Chawkidar with whom they are on an inimical term. It is also submitted that if the Chawkidar was aware of the involvement of the petitioners in the occurrence then why he did not inform the police prior to the institution of the instant FIR which casts an aspersion on the case of the prosecution.

5. Learned A.P.P. for the State opposes the prayer for anticipatory bail of the petitioners.

6. Considering the submissions made by the learned counsel for the petitioners, let the petitioners, above-named, in the event of their arrest or surrender within a period of six weeks from today, be released on provisional anticipatory bail on furnishing bail bonds of Rs.5,000/- (Rupees Five Thousand) each with two sureties of the like amount each to the satisfaction of the learned Trial Court where the case is pending/Successor



Court in connection with Dariyapur P.S. Case No. 802 of 2025, subject to the conditions as laid down under Section 438(2) of the Cr.P.C./482(2) of the B.N.S.S.

7. However, it is made clear that thereafter the learned Trial Court shall verify the criminal antecedent of the petitioners and if it is found that petitioner no. 1 has antecedent of more than one case and petitioner no. 2 has antecedent of even one case, it would be presumed that petitioners had concealed their antecedent before this Court, at para 3 of the anticipatory bail application, in that event, the provisional anticipatory bail order shall not be confirmed, but, if it is found on verification that petitioner no. 1 has antecedent of only one case and petitioner no. 2 is a person with clean antecedent, in that event, the provisional anticipatory bail order shall be confirmed forthwith.

(Satyavrat Verma, J)

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