

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20882 of 2026

Arising Out of PS. Case No.-19 Year-2026 Thana- EXCISE ROSERA District- Samastipur

1. Ajit Kumar @ Ajit Mahto Son of Jogindra Mahto Residents of Village- Bambaia, Ward No. 3, PoliceStation- Dalsinghsarai, District- Samastipur
2. Rajesh Kumar @ Rajesh Mahto Son of Ram Sagar Mahto Residents of Village- Bambaia, Ward No. 3, PoliceStation- Dalsinghsarai, District- Samastipur
3. Chandan Kumar @ Chandan Mahto son of Ram Sagar Mahto Residents of Village- Bambaia, Ward No. 3, PoliceStation- Dalsinghsarai, District- Samastipur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Shashank Shekhar, Advocate
	:	Ms. Mili Kumari, Advocate
For the State	:	Mr. Dr. Kumar Uday Pratap, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 08-04-2026 Heard Ms. Mili Kumari, learned counsel for the petitioners and learned APP representing the State.

2. At the outset, learned counsel for the petitioner prays for and is allowed to withdraw the anticipatory bail application of petitioner no.3, Chandan Kumar @ Chandan Mahto.

3. Accordingly, the anticipatory bail application of petitioner no.3, Chandan Kumar @ Chandan Mahto is rejected.

4. The petitioners are apprehending their arrest in connection with Rosera Excise P.S. Case No. 19 of 2026 registered for the offence under Sections 30(a) and 30(c) of the Bihar Prohibition and Excise Act, lodged on 30.01.2026 by the informant, Pankaj Kumar.



5. Further, learned counsel for the petitioners 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. As per the prosecution story, the informant alleged that on secret information, the place was raided and it was found that 990 liter foreign liquor was under the soil. This led to the F.I.R.

7. Learned counsel for the petitioners submit that recovery/seizure is from an open place and not from the conscious possession. While petitioner no.1 do not have criminal antecedent, the petitioner no.2 have two criminal antecedent, if granted relief they shall be diligently appearing in trial.

8. Learned APP opposes the prayer submitting that on secret information the place was raided and the locals have named them.

9. Taking into account the submissions of the parties as also the fact that the recovery/seizure is from an open place and not from their conscious possession, this Court is inclined to



extend them the privilege of anticipatory bail.

10. Let the petitioner no.1, Ajit Kumar @ Ajit Mahto and petitioner no.2, Rajesh Kumar @ Rajesh Mahto 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 Special Judge Excise-II, Samastipur, in connection with Rosera Excise P.S. Case No. 19 of 2026 subject to the following conditions:-

(i) one of the bailor should be the family member/relative of the petitioner no.1, Ajit Kumar @ Ajit Mahto and petitioner no.2, Rajesh Kumar @ Rajesh Mahto who shall provide official document (Aadhar Card/Voter Id/Driving License/Pan Card) to show his/her bona fide;

(ii) the petitioner no.1, Ajit Kumar @ Ajit Mahto and petitioner no.2, Rajesh Kumar @ Rajesh Mahto shall be appearing before the Police Station as and when required for cooperating in the investigation;

(iii) the petitioner no.1, Ajit Kumar @ Ajit Mahto and petitioner no.2, Rajesh Kumar @ Rajesh Mahto 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/her bail bond by the Trial Court itself;



(iv) the petitioner no.1, Ajit Kumar @ Ajit Mahto and petitioner no.2, Rajesh Kumar @ Rajesh Mahto shall appear before the concerned police station every month for next six months to mark his attendance and at the end of the period a certificate be submitted before the Trial Court failing which the State shall be at liberty to take steps for cancellation of bail bonds;

(v) the petitioner no.1, Ajit Kumar @ Ajit Mahto and petitioner no.2, Rajesh Kumar @ Rajesh Mahto 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;

(vi) the petitioner no.1, Ajit Kumar @ Ajit Mahto and petitioner no.2, Rajesh Kumar @ Rajesh Mahto shall desist from committing any criminal offence again, failing which the State shall be at liberty to take steps for cancellation of bail bonds.

(Rajiv Roy, J)

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