

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25240 of 2026

Arising Out of PS. Case No.-4 Year-2026 Thana- BOKHRA District- Sitamarhi

1. Md. Irshad @ Bachhe Son of Mohammad Mosalim @ Md. Muslim Residents of Village- Mahisautha, Police Station- Bokhra, District- Sitamadhi
2. Md. Raja son of Md. Mosim Residents of Village- Mahisautha, Police Station- Bokhra, District- Sitamadhi

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shashank Shekhar, Advocate

For the Opposite Party/s : Mr. Suresh Prasad Singh, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 18-04-2026 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 three cases under the Excise Act and petitioner no. 2 is a person with clean antecedent and allegation is of recovery of 32.85 litres of liquor from the house of Md. Irshad @ Bacche (petitioner no. 1) and 311.46 litres of liquor from the house of Sushil Kumar Yadav along with 100-150 litres Mahua jaggery solution which was destroyed.

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 was the petitioner no. 1 who had kept the liquor in the house or the liquor kept in the house was within his 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 next submitted that once an accused is implicated in a case relating to excise the police start implicating mechanically either at the instance of the Chawkidar, local person, confessional statement or secret information without holding a proper investigation of the case.

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 appearing on behalf of 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.15,000/- (Rupees Fifteen 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 Bokhra P.S. Case No. 04 of 2026, 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 three cases 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 three cases 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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