

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29776 of 2026

Arising Out of PS. Case No.-127 Year-2026 Thana- RIVILGANJ District- Saran

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1. Dileep Mahto Son of Sudama Mahto R/O Vill.- Rupganj Adda No. 2, P.S.- Chapra Town, District- Saran
 2. Dileep Mahto @ Deeplep S/O Late Lalbabu Mahto R/O Vill.- Rupganj Adda No. 2, P.S.- Chapra Town, District- Saran

... .. Petitioner/s

Versus

1. The State of Bihar
2. Dileep Mahto @ Deeplep Son of Late Lalbabu Mahto R/O Vill.- Rupganj Adda No. 2, P.S.- Chapra Town, District- Saran

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Raushan Raj
For the Opposite Party/s : Mr. Nityanand

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 04-05-2026 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 offences punishable under Section 30(a) of the Bihar Excise Act.

3. Learned counsel for the petitioners submits that petitioner no. 1 has antecedent of six cases under the Excise Act and petitioner no. 2 has antecedent of 15 cases out of which ten cases are under the Excise Act, but inadvertently at Para-3 it has been pleaded that petitioner no. 2 has antecedent of 13 cases when he has antecedent of 15 cases. It is next submitted that



allegation is of recovery of 300 liters of liquor from diyara area.

4. Learned counsel for the petitioners submits that petitioners were not apprehended from the spot as such nothing was recovered from their conscious possession and even alleged recovery is from a place which does not belong to the petitioners and is accessible to villagers at large and they came to be implicated based on confessional statement of apprehended accused in police custody which does not have any evidentiary value. It is next submitted that 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 also submitted that once an accused is implicated in a case relating to excise, the police starts implicating mechanically either at the instance of *Chowkidar*, local person, confessional statement or secret information without holding a proper investigation.

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, the petitioners above-named, in the event of their arrest or surrender before the learned Trial Court within a period of six weeks from today, be released on



Provisional anticipatory bail on furnishing bail bonds of Rs. 75000/- (Rupees Seventy 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 Rivilganj P.S. Case No. 127 of 2026 subject to the conditions as laid down under Section 482 (2) of the BNSS.

7. It is made clear that thereafter the learned Trial Court shall verify the criminal antecedent of the petitioners and in the event if it is found that petitioner no. 1 has antecedent of more than six cases and petitioner no. 2 has antecedent of more than 15 cases then it would be presumed that petitioners, for the purposes of seeking anticipatory bail, had concealed their antecedent before this Court, as such, the provisional anticipatory bail order shall not be confirmed with respect to the petitioner who had concealed his antecedent, but after verification if it is found that petitioner no. 1 has antecedent of six cases only and petitioner no. 2 has antecedent of 15 cases only, in that event the provisional anticipatory bail order shall be confirmed forthwith.

(Satyavrat Verma, J)

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