

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.27232 of 2026

Arising Out of PS. Case No.-463 Year-2025 Thana- KOTWA District- East Champaran

1. Bablu Mahto @ Bablu Kumar S/o Hari Shankar Prasad Resident of village - Amwa, P.S. - Kotwa, Distt.- East Champaran
2. Satrudhan Jaiswal @ Satrudhan Prasad S/o Punit Prasad Resident of village - Amwa, P.S. - Kotwa, Distt.- East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Ms. Sangeeta Sharma, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 23-04-2026 Heard Mr. Abhishek Kumar, learned counsel for the petitioners and Ms. Sangeeta Sharma, learned Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in connection with Kotwa P.S. Case No. 463 of 2025, F.I.R dated 28.12.2025 registered for the offences punishable under Section 30(a) of Bihar Prohibition and Excise Act.

3. Recovery is of 98.25 liters of foreign liquor and Rs. 25,000/-.

4. Learned counsel for the petitioners submits that the petitioners are innocent and they have falsely been implicated in the present case. He further submits that the



allegation as alleged in the F.I.R is false and fabricated. He further submits that it appears from the F.I.R that nothing has been recovered from the conscious possession of the petitioners rather the recovery has been made from the possession of apprehended co-accused, namely, Akash Kumar and their name transpired on the basis of disclosure made by the said Akash Kumar and except the disclosure made by apprehended co-accused person, no other cogent material has come during investigation which suggest the involvement of the petitioners in the present occurrence. There is non-compliance with mandatory procedure prescribed for recovery under Section 103 and 105 of Bhartiya Nagarik Suraksha Sanhita. No case, whatsoever, would be made out against the petitioner 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. She further submits that petitioner no.1 has one criminal antecedent in which he is on bail and petitioner no.2 has clean antecedent.

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 their name transpired on the basis of disclosure made by apprehended co-accused person, 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 bond of Rs. 10,000/- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned Special Judge, Excise Court No.1, Motihari, East Champaran in connection with Kotwa P.S. Case No. 463 of 2025, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure / Section 482(2) of the Bhartiya Nagarik Suraksha Sanhita 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, their 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 bonds 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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