

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29417 of 2026

Arising Out of PS. Case No.-22 Year-2026 Thana- KUTUMBA District- Aurangabad

1. Vivek Kumar @ Vivek Singh S/O Dileep Singh R/O Vill.- Chakua, P.S.- Kutumba, Dist.- Aurangabad.
2. Neeraj Kumar Singh @ Niraj Kumar S/O Indal Singh R/O Vill.- Chakua, P.S.- Kutumba, Dist.- Aurangabad.

... .. Petitioner/s

Versus

The State of Bihar bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Ms. Mukul Kumari, Advocate

For the Opposite Party/s : Mr. Madan Kumar, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 08-05-2026 Heard Ms. Mukul Kumari, learned counsel for the petitioners and Mr. Madan Kumar, learned Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest connection with Kutumba P.S. Case No. 22 of 2026, F.I.R. dated 28.01.2026 registered for the offences punishable under Sections Sections 30(a) of Bihar Prohibition & Excise Amendment Act, 2022.

3. Recovery is of 194.7 litres of country made liquor.

4. Learned counsel for the petitioners submits that the petitioners have clean antecedents and they have falsely been implicated in the present case. She further submits that the



allegation as alleged in the F.I.R. is false and fabricated and the petitioners have not committed any offence as alleged in the F.I.R. and the name of the petitioners have been transpired on the basis of disclosure made by apprehended co-accused persons, namely, Rohit Kumar and Prince Kumar. It appears from the F.I.R. as well as seizure list that altogether 194.7 litres of country made liquor was recovered from the open field and except the disclosure made by the apprehended co-accused persons, no cogent material has come during investigation to suggest the involvement of the petitioners in the present occurrence. Therefore, the recovery cannot be attributed to the petitioners. There is non-compliance with mandatory procedure prescribed for recovery under Section 100 of Cr. P.C./ Section 103 of BNSS, 2023 No case, whatsoever, would be made out against the petitioners 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.

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 and the fact that the petitioners having clean antecedent and nothing has been recovered from conscious possession of the petitioners, 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 learned District & Additional Sessions Judge-cum-Exclusive Special Judge, Excise Court No. 01, Aurangabad in connection with Kutumba PS. Case No. 22 of 2026, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure/Section 482(2) of BNSS, 2023 and with other following conditions:-

1. 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 bonds shall be cancelled by the Court below.

2. 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.

3. 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 antecedents, the court below shall take step for cancellation of bail bond 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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