

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34912 of 2026

Arising Out of PS. Case No.-241 Year-2026 Thana- BANIAPUR District- Saran

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1. Arun Kumar S/o Kanhaiya Prasad R/o village- Chetan Chapra, Baretha, Kanhauli, P.S.- Baniapur, District- Saran
 2. Banti Kumar S/o Swaminath Prasad R/o village Baretha, P.S.- Baniapur, District- Saran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Bishwajeet Singh

For the Opposite Party/s : Mr. Khurshid Anwar

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 01-07-2026 Heard learned counsel for the petitioners and learned
Additional Public Prosecutor for the State.

2. After some arguments, learned counsel for the petitioners seeks permission to withdraw this bail application with respect to petitioner no. 1 with a liberty to the petitioner no. 1 to surrender before the learned Court below within a period of four weeks from today and seek regular bail.

3. Permission is accorded.

4. The application is dismissed as withdrawn with respect to petitioner no. 1 with the liberty that the petitioner no. 1 shall surrender and seek regular bail before the learned Court below, the same shall be considered on the same day on its own



merit in accordance with law and without being prejudiced by any observation in the present order.

5. The petitioner no. 2, namely, Banti Kumar is apprehending his arrest in connection with Baniapur P.S. Case No. 241 of 2026 registered for the offences punishable under Section 30(a) of Bihar Prohibition and Excise Act.

6. The case of the prosecution, in brief, is that the informant Police Inspector namely Bashishtha Narayan Rai submitted a written information that in course of day patrolling he received secret information that accused persons namely Arun Kumar (petitioner no.1), Sukesh Kumar, Banti Kumar (petitioner no. 2) and Golu Kumar have stocked foreign liquor in the flower garden behind Baretha Primary School and selling it. He along with police party reached near the said school at about 1.40 pm and on seeing the police vehicle all four started fleeing. The police party chased him but they managed to escape. Search was made nearby and altogether 107.40 liters of foreign liquor was recovered and accordingly, seizure list was prepared.

7. Learned counsel for the petitioner submits that the petitioner no. 2 has clean antecedent and has 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 and seizure list that nothing has been recovered from the conscious possession of the petitioner no. 2 rather the recovery has been made from the place of occurrence. It is next submitted that name of the petitioner has transpired on the basis of secret information and except the aforesaid nothing has come during investigation to suggest the involvement of the petitioner in the present occurrence. It is next submitted that altogether 107.40 liters of foreign liquor was recovered behind the primary school and petitioner has no concern at all with the alleged occurrence.

8. The learned Additional Public Prosecutor has vehemently opposed the prayer for anticipatory bail of the petitioner no. 2 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.

9. 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 petitioner.

10. Considering the aforesaid facts, nothing has been recovered from conscious possession of the petitioner and the petitioner no. 2 has clean antecedent, let the petitioner no. 2, namely, Banti Kumar in the event of his 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) with two sureties of the like amount each to the satisfaction of the learned Addl. Sessions Judge-cum-Exclusive Special Court Excise Act-I, Saran at Chapra or its successor in connection with Baniapur P.S. Case No. 241 of 2026, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure and with other following conditions:-

1. Petitioner 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 his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

2. If the petitioner tampers 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 petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. 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)

Gaurav Sinha/-

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