

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.49794 of 2026

Arising Out of PS. Case No.-225 Year-2026 Thana- BANJARIA District- East Champaran

1. Rajdeo Mukhiya Son of Late Mohar Mukhiya Resident of Village-Siswa Bin Toli, P.S-Banjariya, District-East Champaran
2. Kaushaliya Devi Wife of Rajdeo Mukhiya Resident of Village-Siswa Bin Toli, P.S-Banjariya, District-East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Vijay Shankar Shrivastava, Advocate
For the Opposite Party/s : Mr. Kanhiya Kishor, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 22-07-2026 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 petitioners have antecedent of one case under the Excise Act and petitioner no. 2 is a woman and allegation is of recovery of 40 litres of liquor from the house of the petitioners and 30 litres of liquor from the house of Rameshwar Mukhiya.

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 were the petitioners who had kept the liquor in the house or the liquor kept in the house was within their 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 based on the confessional statement of Jitendra Mukhiya in police custody which does not have any evidentiary value in the eye of law. It is also submitted that Jitendra Mukhiya is the son of the petitioners and Jitendra Mukhiya was pressurized to name the petitioners in the instant 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.5,000/- (Rupees 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 Banjariya P.S. Case No. 225 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 petitioners have antecedent of more than 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 petitioners have antecedent of only one case in that event the provisional anticipatory bail order shall be confirmed forthwith.

(Satyavrat Verma, J)

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