

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.57803 of 2025

Arising Out of PS. Case No.-103 Year-2025 Thana- PHULWARIYA District- Gopalganj

1. Balindra Yadav S/O Misri Yadav R/O Madwani, P.S- Phulwaria, Distt.- Gopalganj.
2. Sunil Yadav S/O Suresh Yadav R/O Mardwani, P.S- Phulwariya, Distt.- Gopalganj.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Deepankar Raj

For the Opposite Party/s : Mr. Satya Nand Shukla

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

4 15-04-2026 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 Bihar Prohibition and Excise Amendment Act, 2022.

3. Learned counsel for the petitioners submits that petitioner no.1 has antecedent of 8 cases, out of which, six cases are under the Excise Act and petitioner no.2 has antecedent of six cases under the Excise Act and allegation is of recovery of 396 litres of liquor from four motorcycles. It is next submitted that petitioners were not arrested from the spot as such nothing was recovered from their conscious possession and are not the



owner of any of the seized vehicle and they came to be implicated based on confessional statement of Nitesh in police custody which does not have any evidentiary value. It is also 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 through chowkidar, local person, confessional statement or secret information without holding a proper investigation. It is also submitted that petitioners earlier in similar manner came to be implicated in cases relating to excise.

4. Learned A.P.P. for the State opposes the prayer for anticipatory bail of the petitioners.

5. Considering the submissions made by the learned counsel for the petitioners, 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.40,000/- (Rupees forty 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 Phulwariya P.S. Case No.103/2025,



subject to the conditions as laid down under Section 482(2) of the B.N.S.S.

6. It is made clear that thereafter the learned trial court thereafter shall verify the criminal antecedents of the petitioners and in the event if it is found that petitioner no.1 has antecedent of more than eight cases and petitioner no.2 has antecedent of more than six cases, in that event, it would be presumed that petitioners had concealed their antecedent before this court, as such, the provisional anticipatory bail order shall not be confirmed with respect to those petitioners whose criminal antecedent does not tally but if after verification the criminal antecedent as recorded hereinabove tallies with the petitioners in that event the provisional anticipatory bail order shall be confirmed forthwith.

(Satyavrat Verma, J)

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