

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1041 of 2026

Arising Out of PS. Case No.-327 Year-2025 Thana- BABUBARHI District- Madhubani

1. Raju Mahto Son of Bhagwat Mahto Resident of Village- Barail, P.S.- Babubarhi, District- Madhubani
2. Dharmveer Mahto Son of Bhagwat Mahto Resident of Village- Barail, P.S.- Babubarhi, District- Madhubani

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Md Soban Asghar

For the Opposite Party/s : Mr. Umesh Lal Verma

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 20-01-2026 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 Sections 274, 275 BNS and Section 30(a) of Bihar Prohibition and Excise Act.

3. Learned counsel for the petitioners submits that petitioners have antecedent of one case but then they were acquitted and allegation is of recovery of 18.60 litres of liquor from the house of petitioner no.1 and 37.2 litres of liquor from the house of petitioner no.2. It is next submitted that petitioners were not arrested from the spot as such nothing was recovered from their conscious possession and the house in question is a



joint family property as such it cannot be alleged with certainty that it was petitioner, who had kept the liquor in the house or the liquor kept in the house was within his 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 and they came to be implicated at the instance of chowkidar but then it is submitted that if chowkidar was aware of the involvement of the petitioner in the occurrence then why he did not inform the police prior to institution of the instant FIR which casts an aspersion on the case of the prosecution.

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 before the learned Court below within a period of six weeks from today, be released on provisional anticipatory bail on furnishing bail bonds of Rs.5000/- (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 Babubarhi P.S. Case No.327/2025, 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 petitioners have antecedent of more than one case, 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 but if after verification, it is found that petitioners have antecedent of one case, in that event the provisional anticipatory bail order shall be confirmed forthwith.

(Satyavrat Verma, J)

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