

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.8199 of 2025**

Arising Out of PS. Case No.-4 Year-2021 Thana- NADI P.S. District- Patna

Umesh Bhagat S/o- Keshav Bhagat @ Kesho Bhagat Village- Jagdishpur PS-  
Mohanpur Dist- Vaishali

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr. Jay Ram Prasad, Advocate  
For the State : Mr. Upendra Kumar, APP

**CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR**  
**ORAL ORDER**

2      18-02-2025                      Heard Ld. counsel for the petitioner and Ld. APP for  
the State.

2. The present petition has been filed on behalf of the petitioner, apprehending his arrest, in connection with Special Case No. 171 of 2021 arising out of Nadi PS. Case No.04 of 2021 dated 05.01.2021, registered for the offences punishable under Sections 353, 420, 427, 467, 468 and 471/34 of the Indian Penal Code and Sections 30(a), 36, 41(1) and 45 of Bihar Prohibition and Excise Act, 2016.

3. As per allegation, total 36 litre of foreign liquor has been recovered from the Maruti Suzuki Wagonr vehicle bearing registration no. BR01AT-9688 and the driver of the vehicle namely, Mithun Kumar was arrested on the spot.

4. Ld. counsel for the petitioner submits that the



Petitioner is innocent and has falsely been implicated in this case. He further submits that though the vehicle belongs to the petitioner, he is no way involved in the alleged offence and hence he has no criminal liability. It is the driver who was carrying the illegal liquor in the vehicle.

5. It is also stated in paragraph no. 2 of the bail petition that the petitioner has not moved this Court earlier either for anticipatory bail or regular one in the instant case.

6. It has further been stated in paragraph no.3 of the petition that the petitioner has no criminal antecedents.

7. However, Ld. APP for the State vehemently opposes the prayer of the Petitioner for anticipatory bail submitting that the present anticipatory bail petition on behalf of the petitioner is not maintainable, because he is owner of the vehicle and under Section 32 of the Bihar Prohibition and Excise Act, 2016, there is presumption against the petitioner for his connivance in the alleged offence. Hence, *prima facie* case is made out against the petitioner and defence can be put forward by the petitioner only during the trial. At this stage, the present anticipatory bail petition is non-maintainable.

8. I considered the submissions advanced by both the parties and perused the materials on record.



9. Admittedly the petitioner is owner of the vehicle, carrying the illegal foreign liquor. Hence, under Section 32 of the Bihar Prohibition and Excise Act, 2016, there is statutory presumption of the guilt of the owner of the vehicle, subject to satisfactory explanation about his innocence. But the plea of the defence by way of explanation can be proved by the owner only during trial. At this stage, the present anticipatory bail petition gets not maintainable in view of *prima facie* case against the petitioner under the Excise Act.

10. Hence, the present anticipatory bail petition of the petitioner is dismissed as non-maintainable.

**(Jitendra Kumar, J.)**

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