

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.24609 of 2025

Arising Out of PS. Case No.-261 Year-2019 Thana- BAISI District- Purnia

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Jagdish Kawariwala @ Krishna Devnath @ Bishnu Devnath @ Jadish
Kawarewala Devnath Son of Narayan Devnath Yadav Resident of Subhas
Pally, Dalkhola Baldoria ,PS Dalkhola, District Uttar Dinajpur , (West
Bengal)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Md Fazle Karim

For the Opposite Party/s : Mr.Nagendra Prasad

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CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR SINHA
ORAL ORDER

2 06-05-2025 Heard learned Counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner apprehend his arrest in connection
with Baisi P.S. Case No. 261 of 2019, registered under Sections
272, 273 of the Bhartiya Nagrik Sanhita and Sections 30(a), 41
and 47 of the Bihar Excise (Prohibition) Act, 2018.

3. Prosecution story is that on search, total 882
litres of illegal foreign liquor was recovered from pick up
vehicle bearing Registration No. WB59C-1612. Initially the
petitioner was not named as an accused but his name has been
implicated on the basis of confessional statement of co-accused,
Murshid Alam.

4. Learned counsel for the petitioner submits that



the petitioner is innocent and has been falsely implicated in this case merely on the basis of confessional statement of Murshid Alam. The petitioner has two criminal antecedents which have been described in paragraph 3 of the bail application and it is pertaining to be noted that in other two cases also, the petitioner has been implicated on the basis of confessional statement of same co-accused, Murshid Alam. The petitioner therefore, alleges that there is personal enmity between him and Murshid Alam. The petitioner also submits that search and seizure memo has been prepared in absence of independent witness which puts serious question mark on the legality and validity of the search itself. The petitioner further submits that the other other co-accused persons, namely, Abdul Jalil and Umar Farooque@ Md. Farooque have already been granted anticipatory bail vide order dated 25.03.2025 and 21.04.2025 passed in Cr. Misc. No.7503 of 2025 and 15630 of 2025 respectively.

5. Learned Additional Public Prosecutor for the State has vehemently opposed the prayer for anticipatory bail and submits that petitioner has a criminal antecedent of two cases of similar nature.

6. Considering the fact that the recovery of illegal foreign liquor has not been done from the conscious possession



of the petitioner and in fact the vehicle bearing Registration No. WB59C-1612 does not belong to the petitioner, also given the fact that there are no independent witnesses at the time of search and seizure memo that puts a question mark upon the legality and validity of the search and seizure itself and also the fact that the co-accused persons have already been granted bail by a Coordinate Bench of this Court, I am inclined to grant privilege of anticipatory bail to the petitioner.

7. Let the petitioner, named above, in the event of his arrest or surrender before the Court below within four weeks from today, be released on bail on furnishing bail bond of Rs.10,000/- (Ten thousand) with two sureties of the like each amount each to the satisfaction of Exclusive Special Judge, Excise, Court No.I, Purnea, in connection with Baisi P.S. Case No. 261 of 2019, subject to the condition laid down under Section 482 of the Bhartiya Nyaya Sanhita.

(Alok Kumar Sinha, J)

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