

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23996 of 2025

Arising Out of PS. Case No.-43 Year-2025 Thana- GAMAHARIYA District- Madhepura

Phul Kumar Son of Sikendra Prasad Yadav Resident of Village - Jogbani,
Ward No.- 14, P.S.- Gamhariya, District - Madhepura

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ramesh Kumar Singh

For the Opposite Party/s : Mr.Ramchandra Sahn

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

- 2 30-04-2025 1. Heard learned counsel for the petitioner and learned APP for the State.
2. The petitioner seeks bail in anticipation of his arrest in a case registered for the offences punishable under Section 30(a) of the Excise Act.
3. The learned counsel for the petitioner submits that the petitioner has antecedent of two cases and allegation is of recovery of 16.125 litres of liquor from the house of the petitioner.
4. The learned counsel for the petitioner submits that petitioner was not arrested from the spot, as such, nothing was recovered from his conscious possession and after Amendment in the Excise Act, 2018, the concept of deemed possession and presumed offender has been done away with and the house in



question is a joint family property and thus, cannot be alleged with certainty that it was the petitioner, who had kept the liquor in the house or the liquor kept in the house was within his knowledge. It is also submitted that once an accused is implicated in a case relating to excise, the police starts implicating mechanically without holding a proper investigation either at the instance of chaukidar, secret informant and confessional statement in a mechanical.

5. Learned A.P.P. opposes the anticipatory bail application.

6. Considering the submissions made by the learned counsel for the petitioner, the petitioner, above-named, in the event of his arrest or surrender before the learned Court below within a period of six weeks, is directed to be released on provisional anticipatory bail on his furnishing bail-bonds in the sum of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge-V-cum-Special Judge Excise Act-1, Madhepura in connection with Gamahariya P. S. Case No.43 of 2025, subject to the conditions laid down under Section 438(2) of the Cr.P.C.

7. The application stands allowed.



8. It is made clear that the learned trial Court after accepting the provisional bail bonds of the petitioner shall verify the criminal antecedent of the petitioner and in the event, if it is found that petitioner has antecedent of more than two cases, then it would be presumed that petitioner for the purposes of obtaining anticipatory bail had concealed his antecedent before this Court, in that event, the present provisional anticipatory bail order shall not be confirmed, but if on verification, it is found that petitioner has antecedent of only two cases, in that event, the provisional anticipatory bail order shall be confirmed forthwith.

(Satyavrat Verma, J)

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