

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37952 of 2025

Arising Out of PS. Case No.-81 Year-2025 Thana- PARIHAR District- Sitamarhi

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Ram Ishwar Mahto @ Ram Ishwar Son of Srichan Mahto R/O Village-
Parihar, P.S.- Parihar, Distt.- Sitamarhi

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Santosh Kumar

For the Opposite Party/s : Mr. Veena Kumari Jaiswal

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 25-06-2025 1. Heard learned counsel for the petitioner and
learned A.P.P. for the State.

2. The petitioner apprehends his arrest in a case
registered for the offences punishable under Section 317(5) of
BNS read with Section 30(a) of the Bihar Excise Act.

3. Learned counsel for the petitioner submits that
petitioner has antecedent of four cases under the excise act and
allegation is of recovery of 178 liters of liquor from two
motorcycles and Rajiv was apprehended.

4. Learned counsel for the petitioner submits that
petitioner was not arrested from the spot as such nothing was
recovered from his conscious possession and he came to be
implicated based on confessional statement of apprehended
accused 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 next submitted that once an accused is implicated in a case relating to excise, the police starts implicating mechanically either at the instance of *Chowkidar*, local person, secret information or confessional statement.

5. Learned A.P.P. for the State opposes the prayer for anticipatory bail of the petitioner.

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 trial court within a period of six weeks from today, be released on **Provisional anticipatory bail** on furnishing bail bonds of Rs. 20,000/- (Rupees Twenty Thousand) 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 Parihar P.S. Case No. 81 of 2025 subject to the conditions as laid down under Section 482 (2) of the BNSS.

7. It is made clear that the learned Trial Court after accepting the provisional anticipatory 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 four cases then it would be presumed that petitioner, for the purposes of seeking anticipatory bail, had concealed his antecedent before this Court, as such, the provisional anticipatory bail shall not be confirmed, but in the event if it is found that petitioner has antecedent of four cases only in that event the provisional anticipatory bail bonds shall be confirmed forthwith.

(Satyavrat Verma, J)

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