

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37922 of 2025

Arising Out of PS. Case No.-55 Year-2025 Thana- BENIPATTI District- Madhubani

Birju Yadav S/o Late Saukhi Yadav R/o Village- Soyalighat, PS- Benipatti,
District- Madhubani

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr. Gagan Deo Yadav, Advocate
	Mr. Ravi Prakash, Advocate
	Mr. Udeshya Kumar Yadav, Advocate
For the Opposite Party/s :	Mr. Jharkhandi Upadhyay, A.P.P.

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 the BNS and Section 30(a) of the Bihar Prohibition and Excise Act.
3. Learned counsel for the petitioner submits that petitioner has antecedent of one case.
4. Allegation is of recovery of 12.66 litres of liquor from three motorcycles and Bikendra Sahni and Bishujeet Sahni were arrested.
5. Learned counsel for the petitioner submits that petitioner was not arrested from the spot, as such, nothing was recovered from his conscious possession. It is further submitted



that petitioner is not the owner of any of the seized motorcycles and he came to be implicated based on the confessional statement of apprehended accused in police custody which does not have any evidentiary value in the eye of law. It is next 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 also submitted that once an accused is implicated in a case relating to excise the police start implicating mechanically without holding proper investigation of the case.

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

7. Considering the submissions made by the learned counsel for the petitioner, let the petitioner above-named, in the event of his 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.5,000/- (Rupees Five Thousand) with two sureties of the like amount each to the satisfaction of the learned court below where the case is pending/successor court in connection with Benipatti P.S. Case No. 55 of 2025, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.



8. It is made clear that thereafter the learned trial court shall verify the criminal antecedent of the petitioner and if it is found that petitioner has antecedent of more than one case, it would be presumed that petitioner had concealed his antecedent before this Court at para 3 of the anticipatory bail application in that event the provisional anticipatory bail order shall not be confirmed but if it is found on verification that petitioner has antecedent of only one case in that event the provisional anticipatory bail order shall be confirmed forthwith.

(Satyavrat Verma, J)

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