

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8749 of 2026

Arising Out of PS. Case No.-393 Year-2025 Thana- LADANIA District- Madhubani

1. Durgesh Yadav @ Durgesh Kumar S/o Sunil Yadav R/o Village - Bishunpur, P.S - Ladaniya (Ladania), District - Madhubani, State - Bihar
2. Sikandar Yadav @ Sikendra Yadav S/o Krishnadev Yadav R/o Village - Bishunpur, P.S - Ladaniya (Ladania), District - Madhubani, State - Bihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Jha, Advocate
For the Opposite Party/s : Mr. Arun Kumar, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

- 3 16-03-2026 1. Learned counsel for the petitioners, at the outset, seeks permission to withdraw the anticipatory bail application with respect to petitioner no. 1, namely, Durgesh Yadav @ Durgesh Kumar who was arrested during pendency of the same.
2. Permission is accorded.
3. Accordingly, the anticipatory bail application with respect to petitioner no. 1 is dismissed as withdrawn.
4. Heard learned counsel for the petitioner no. 2 and learned A.P.P. for the State.
5. The petitioner no. 2 apprehends his arrest in a case registered for the offences punishable under Sections 274, 275 and 3(5) of the BNS as well as Section 30(a) of the Bihar Prohibition and Excise (Amendment) Act, 2022.
6. Learned counsel for the petitioner no. 2 submits



that petitioner no. 2 has antecedent of nine cases out of which six cases are under the Excise Act and allegation is of recovery of 216 litres of liquor from a motorcycle and 324 litres of liquor from a Toyota.

7. Learned counsel for the petitioner no. 2 submits that petitioner no. 2 was not arrested from the spot, as such, nothing was recovered from his conscious possession. It is further submitted that petitioner no. 2 is not the owner of any of the seized vehicles and came to be implicated based on the confessional statement of Jaiprakash Singh 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 next submitted that once an accused is implicated in a case relating to excise the police start implicating mechanically either at the instance of the Chawkidar, local person, secret information or confessional statement without holding a proper investigation of the case.

8. Learned A.P.P. for the State opposes the prayer for anticipatory bail of the petitioner no. 2.

9. Considering the submissions made by the learned counsel for the petitioner no. 2, let the petitioner no. 2, above-



named, in the event of his arrest or surrender within a period of six weeks from today, be released on provisional anticipatory bail on furnishing bail bonds of Rs.45,000/- (Rupees Forty-five 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 Ladaniya P.S. Case No. 393 of 2025, subject to the conditions as laid down under Section 438(2) of the Cr.P.C./482(2) of the B.N.S.S.

10. It is made clear that thereafter the learned Trial Court shall verify the criminal antecedent of the petitioner no. 2 and if it is found that petitioner no. 2 has antecedent of more than nine cases, it would be presumed that petitioner no. 2 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 no. 2 has antecedent of only nine cases in that event the provisional anticipatory bail order shall be confirmed forthwith.

(Satyavrat Verma, J)

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