

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23343 of 2026

Arising Out of PS. Case No.-238 Year-2019 Thana- BAISI District- Purnia

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Jagdish Kawariwala @ Krishna Devnath @ Bishnu @ Bishnu Devnath @
Jagdish Kawarewala Devnath @ S/o Narayan Devnath Yadav Petitioners
Name @ Jagodish Kawarewala Resident of - Para Subhas Pally, Dalkhola,
Baldoria, P.S.- Dalkhola, District - Uttar Dinajpur, State - 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, Advocate
Ms. Niharika Rani, Advocate
For the Opposite Party/s : Mr. Ramchandra Sahni, APP

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

- 3 17-04-2026 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 Sections 272 and
273 of the IPC read with Sectionss 30(a), 33, 41 and 47 of the
Bihar Excise Act.
3. Learned counsel for the petitioner submits that
petitioner has antecedent of three cases under the Excise Act and
allegation is of recovery of 16000 liters of liquor from two
trucks.
4. Learned counsel for the petitioner submits that
petitioner was not apprehended from the spot as such nothing



was recovered from his conscious possession and is not the owner of any of the seized vehicles and came to be implicated based on confessional statement of Murshid in police custody which does not have any evidentiary value. 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 starts implicating mechanically either at the instance of *Chowkidar*, local person, confessional statement or secret information without holding a proper investigation. It is also submitted that earlier also petitioner came to be implicated in similar manner in cases relating to Excise.

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. 15000/- (Rupees Fifteen 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 Baisi P.S.
Case No. 238 of 2019 subject to the conditions as laid down
under Section 482 (2) of the BNSS.

7. It is made clear that thereafter the learned Trial Court shall verify the criminal antecedent of the petitioner and in the event if it is found that petitioner has antecedent of more than three 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 order shall not be confirmed, but after verification if it is found that petitioner has antecedent of three cases only, in that event the provisional anticipatory bail order shall be confirmed forthwith.

(Satyavrat Verma, J)

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