

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.12538 of 2026

Arising Out of PS. Case No.-1 Year-2026 Thana- SHIVAJINAGAR District- Samastipur

Nitish Kumar Son of RamParikshan singh R/o Village - Prandahi, P.S. -
Hathauri, District - Samastipur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ajay Kumar, Adv.

For the Opposite Party/s : Mr. Chandra Bhushan Prasad, APP

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 09-03-2026 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 offence punishable under Section 30(a) of
Bihar Prohibition and Excise Act.

3. Learned counsel for the petitioner submits that
petitioner has antecedent of one case under the Excise Act and
allegation is of recovery of 148.7 litres of liquor from a mustard
field. It is next submitted that petitioner was not arrested from
the spot as such nothing was recovered from his conscious
possession and even alleged recovery is from a place which
does not belong to the petitioner and is accessible to villagers at
large and he came to be implicated based on confessional
statement of Mandip 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 also submitted that once an accused is implicated in a case relating to excise, the police starts implicating mechanically either through chowkidar, local person, confessional statement or secret information without holding a proper investigation.

4. Learned A.P.P. for the State Mr. Chandra Bhushan Prasad opposes the prayer for anticipatory bail of the petitioner.

5. Considering the submissions made by the learned counsel for the petitioner, the petitioner 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.5000/- (Rupees 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 Shivajinagar P.S. Case No.01/2026, subject to the conditions as laid down under Section 482(2) of the B.N.S.S.

6. It is made clear that the learned trial court thereafter shall verify the criminal antecedents of the petitioner and in the event if it is found that petitioner has antecedent of more than



one case, in that event, it would be presumed that petitioner had concealed his antecedent before this court, as such, the provisional anticipatory bail order shall not be confirmed but if on verification it is found that petitioner has antecedent of one case, in that event the provisional anticipatory bail order shall be confirmed forthwith.

(Satyavrat Verma, J)

amit/-

U		T	
---	--	---	--

