

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16040 of 2026

Arising Out of PS. Case No.-239 Year-2025 Thana- ARER District- Madhubani

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1. Subhash @ Subhash Kumar Paswan @ Subhash Kumar Son of Jagjeevan Paswan R/o - Jhitkohia, P.S - Basopatti, District - Madhubani, Bihar.
 2. Anil Kumar @ Anil Kumar Yadav Son of Bechan Yadav R/o Village -Mahthaur, P.S - Basopatti, District - Madhubani, 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. Harendra Prasad, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA

ORAL ORDER

3 27-04-2026 1. Heard learned counsel for the petitioners and learned A.P.P. for the State.

2. The petitioners apprehend their arrest in a case registered for the offences punishable under Sections 274, 275 and 3(3) of the BNS, 2023 as well as Section 30(a) of the Bihar Prohibition and Excise (Amendment) Act, 2022.

3. Learned counsel for the petitioners submits that petitioners are persons with clean antecedent and allegation is of recovery of 92.88 litres of liquor from two motorcycles.

4. Learned counsel for the petitioners submits that petitioners were not arrested from the spot, as such, nothing was recovered from their conscious possession. It is further submitted that petitioners are not the owner of the seized vehicle



and 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.

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

6. Considering the submissions made by the learned counsel appearing on behalf of the petitioners, let the petitioners, above-named, in the event of their arrest or surrender within a period of six weeks from today, be released on provisional anticipatory bail on furnishing bail bonds of Rs.500/- (Rupees Five Hundred) each 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 Arer P.S. Case No. 239 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.

7. However, it is made clear that thereafter the learned Trial Court shall verify the criminal antecedent of the petitioners and if it is found that petitioners have antecedent of even one case, it would be presumed that petitioners had concealed their



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 petitioners are persons with clean antecedent, in that event, the provisional anticipatory bail order shall be confirmed forthwith.

(Satyavrat Verma, J)

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