

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23536 of 2026

Arising Out of PS. Case No.-61 Year-2022 Thana- MORKAHI District- Khagaria

Nitish Kumar @ Nitish Yadav S/O Ashok Yadav R/O Village- Hara- Hari,
Ward No. 16, P.S- Jamal Nagar, Distt.- Saharsa (Bihar).

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Ms.Seema Kumari

For the Opposite Party/s : Mr.Braj Kishore Pd.(App)

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

- 2 09-04-2026 1. Heard learned counsel for the petitioner and
learned APP for the State.
2. The petitioner seeks bail in anticipation of his
arrest in a case registered for the offences punishable under
Section 30(a) of the Excise Act.
3. The learned counsel for the petitioner submits that
the petitioner has antecedent of four cases out of which one case
is under the Excise Act and allegation is of recovery of 6.375
litres of liquor from a motorcycle.
4. The learned counsel for the petitioner submits that
petitioner was not arrested from the spot, as such, nothing was
recovered from his conscious possession and is not the owner of
the seized motorcycle and he came to be implicated based on
confessional statement of Md. Raunak in police custody, which



does not have any evidentiary value. It is also submitted that after Amendment in the Excise Act, 2018, the concept of deemed possession and presumed offender has been done away with.

5. Learned A.P.P. opposes the anticipatory bail application.

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 Court below within a period of six weeks, is directed to be released on provisional anticipatory bail on his furnishing bail-bonds in the sum of Rs.20,000/- (Rupees Twenty 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 Morkahi P. S. Case No.61 of 2022, G.R.(E) No.338 of 2022, subject to the conditions laid down under Section 438(2) of the Cr.P.C.

7. The application stands allowed.

8. It is made clear that the learned trial Court after accepting the provisional bail bonds of the petitioner shall verify the criminal antecedent of the petitioner and in the event, if it is found that petitioner has antecedent of more than four cases,



then it would be presumed that petitioner for the purposes of obtaining anticipatory bail had concealed his antecedent before this Court, in that event, the present provisional anticipatory bail order shall not be confirmed, but if on verification, it is found that petitioner has antecedent of four cases only, in that event, the provisional anticipatory bail order shall be confirmed forthwith.

(Satyavrat Verma, J)

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