

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22779 of 2026

Arising Out of PS. Case No.-46 Year-2026 Thana- Excise P.S. District- Aurangabad

Vivek Bharti @ Vivek Kumar S/O Sudeshwar Bharti Resident of Village-
Kunda Ward No. 9, P.S.- Aurangabad Muffasil, District- Aurangabad

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Binod Kumar Pandey
For the Opposite Party/s : Mr.Md. Iftekhar Mahmood

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 27-04-2026 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
Sections 30(a), 41(1) and 41(2) of the Excise Act.

3. The learned counsel for the petitioner submits that
the petitioner has antecedent of one case under the Excise Act
and allegation is of recovery of 13.2 litres of liquor from
possession of Rahul Kmar and Ujjawal Kumar.

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 he came to be
implicated based on confessional statement of apprehended
accused 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.5,000/- (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 Aurangabad Excise P. S. Case No.46 of 2026, 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 one case, 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 one case only, in that event, the provisional anticipatory bail order shall be confirmed forthwith.

(Satyavrat Verma, J)

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