

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28895 of 2026

Arising Out of PS. Case No.-90 Year-2021 Thana- UJIYARPUR District- Samastipur

Santosh Kumar S/o Sitaram Yadav @ Baba Resident of Village - Sultanganj,
P.S. - Bahadurpur, Dist. - Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Manoj Kumar, Advocate

For the Opposite Party/s : Mr. Sanjay Kumar Sharma, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 04-05-2026 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 414, 467, 468, 471 and 420/34 of the Indian Penal Code as well as Section 30(a) of the Bihar Prohibition and Excise (Amendment) Act, 2018.

3. Learned counsel for the petitioner submits that petitioner has antecedent of four cases out of which one case is under the Excise Act and allegation is of recovery of 2652.28 litres of liquor from a Tata Magic and a Truck.

4. Learned counsel for the petitioner submits that petitioner was not arrested from the spot, as such, nothing was recovered from his conscious possession. It is further submitted that petitioner is not the owner of any of the seized vehicles 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. It is also submitted that once an accused is implicated in a case relating to excise the police start implicating mechanically either at the instance of the Chawkidar, local person, confessional statement or secret information without holding a proper investigation of the case.

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 appearing on behalf of the petitioner, let 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.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 Ujiyarpur P.S. Case No. 90 of 2021, 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 petitioner and if it is found that petitioner has antecedent of more than four cases, it would be presumed that petitioner had concealed his 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 petitioner has antecedent of only four cases in that event the provisional anticipatory bail order shall be confirmed forthwith.

(Satyavrat Verma, J)

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