

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31879 of 2026

Arising Out of PS. Case No.-236 Year-2025 Thana- MOHIUDDIN NAGAR District-
Samastipur

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Nitish Kumar S/o Mantu Ray R/o vill - Dharampur, PS- Mohiuddin nagar,
District- Samstipur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar

For the Opposite Party/s : Mr. Sanjay Kumar Tiwary

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 12-05-2026 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 offence punishable under Sections 30(a), 41,
47 of Bihar Prohibition and Excise Act and Sections 274, 275,
317(5) and 3(5) of the BNS.

3. Learned counsel for the petitioner submits that
petitioner has antecedent of four cases under the Excise Act and
allegation is of recovery of 150 litres of liquor from a
motorcycle. It is next submitted 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 vehicle and he
came to be implicated based on confessional statement of



Prashant 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 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.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 Mohiuddin Nagar P.S. Case No.236/2025, 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 four cases, 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 four cases, in that event the provisional anticipatory bail order shall be confirmed forthwith.

(Satyavrat Verma, J)

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