

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38772 of 2026

Arising Out of PS. Case No.-422 Year-2026 Thana- Excise P.S. District- Gaya

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Guddu Yadav @ Kaliya Yadav @ Rakesh Kumar S/O Late Basant Yadav @
Late Baldev Yadav Resident of Village- Bhagalpur, Police Station- Bodh
Gaya, District- Gaya Ji (Bihar) at Present Village- Katoriya, Police Station-
Bodhgaya, District- Gaya Ji (Bihar).

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Abhay Kumar Singh, Advocate

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

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 23-07-2026 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 30(a) and
62 of the Bihar Prohibition and Excise (Amendment) Act, 2016.

3. Learned counsel for the petitioner submits that
petitioner has antecedent of two cases under the Excise Act and
allegation is of recovery of 225.750 litres of liquor from the
house of the petitioner.

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 the house in question is a joint family property, as such, it
cannot be alleged with certainty that it was the petitioner who



had kept the liquor in the house or the liquor kept in the house was within his knowledge and 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 next submitted that petitioner came to be implicated based on the secret information which is the easiest way to implicate someone. 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.10,000/- (Rupees Ten 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 Gaya Excise P.S. Case No. 422 of 2026, 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 two 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 two cases in that event the provisional anticipatory bail order shall be confirmed forthwith.

(Satyavrat Verma, J)

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