

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.90897 of 2025

Arising Out of PS. Case No.-85 Year-2025 Thana- SHIVAJINAGAR District- Samastipur

1. Shri Kusheshwar Mukhiya S/O Late Shri Narayan Mukhiya R/O village-Ghiwahi, Police Station- Shivajinagar, District- Samastipur.
2. Ramadhar Mukhiya S/O Upendra Mukhiya @ Gultan Mukhiya R/O village-Ghiwahi, Police Station- Shivajinagar, District- Samastipur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr. Rabindra Kumar, APP

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 12-01-2026 1. Heard learned counsel for the petitioners and learned A.P.P. for the State.

2. The petitioners apprehend their arrest in a case registered for the offences punishable under Section 30(a) of the Bihar Excise Act.

3. Learned counsel for the petitioners submits that petitioners are persons with clean antecedent and allegation is of recovery of 51 liters of liquor from house of the petitioners as recorded in the FIR

4. Learned counsel for the petitioners submits that petitioners were not apprehended from the spot as such nothing was recovered from their conscious possession and the house in



question is a joint family property, as such, it cannot be alleged with certainty that it were petitioners who had kept the liquor in the house or the liquor kept in the house was within their knowledge. 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 and they came to be implicated based on secret information which is the easiest way to implicate someone without holding a proper investigation when petitioners admittedly are persons with clean antecedent.

5. Learned A.P.P. for the State opposes the prayer for anticipatory bail of the petitioners.

6. Considering the submissions made by the learned counsel for the petitioners, the petitioners above-named, in the event of their arrest or surrender before the learned Trial Court within a period of six weeks from today, be released on **Provisional anticipatory bail** on furnishing bail bonds of Rs. 500/- (Rupees Five Hundred) each 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 Shivajinagar P.S. Case No. 85 of 2025 subject to the conditions as laid down under Section 482 (2) of the BNSS.



7. It is made clear that thereafter the learned Trial Court shall verify the criminal antecedent of the petitioners and in the event if it is found that any of the petitioners have antecedent of even one case then it would be presumed that petitioners, for the purposes of seeking anticipatory bail, had concealed their antecedent before this Court, as such, the provisional anticipatory bail order shall not be confirmed, but after verification if it is found that petitioners are persons with clean antecedent, in that event the provisional anticipatory bail order shall be confirmed forthwith.

(Satyavrat Verma, J)

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