

IN THE COURT OF EXCLUSIVE EXCISE COURT-I, JAMUI

A.B.A. No. 436/2026

Present :- **Ratneshwar Singh**
Presiding Officer,
Exclusive Excise Court-I, Jamui.

**Reference:- Arising out of Khaira P.S. Case No. 09/2026
U/S-30(a) Bihar Prohibition & Excise Act.**

In the matter of :-

1. Kailashba Devi @ Kailash Devi W/o- Late Lochan Naiya

R/o : Vill- Neem Nawada, P.S.- Khaira, distt- JamuiPetitioner

Vs

State of Bihar

.....O.P.

Ld. Counsel for the Petitioner:- Sri Pradeep Kumar, Ld. Adv.

Ld. Counsel for the O.P. :- Sri Manoj Kumar Singh, Spl.P.P.

Date of order:- 18.06.2026

ORDER

Anticipatory bail petition has been filed on behalf of above named accused petitioner namely **Kailashba Devi @ Kailash Devi**, who is apprehending her arrest in connection with **Khaira P.S. Case No. 09/2026** for committing an alleged offence u/s-30(a) **Bihar Prohibition & Excise Act.**

The Ld. Counsel appearing on behalf of accused petitioner has submitted that no other anticipatory bail application or regular bail application has been filed by the petitioner either before this Court or before the Hon'ble High Court Patna. Petitioner is quite innocent and has committed no offence and has falsely been implicated in this false case. The petitioner has not got notice U/s- 35(3) BNSS as informed by his pairvykar. Petitioner is old lady aged about 72 years old, she has falsely been implicated in this false case due to instant of mischief mongers of locality due to the villager politics. Nothing has been recovered from the physical possession of the petitioner. It is therefore prayed to release the petitioner on anticipatory bail.

On the other hand Ld. Spl. P.P. appearing on behalf of State vehemently opposed the prayer for bail and submitted to reject the same.

Heard both sides. Perused the F.I.R. and other material available on record. On dt. 07.01.2026 at about 15:05 hours the informant was on patrolling duty. During patrolling when the informant reached near Badibagh Chowk, the informant has received a secret information that in the village Neem Nawada accused petitioner Kailashba Devi manufacturing illegal liquor. On the verification of said information, the informant along with police team went at the house of accused petitioner Kailashba Devi and saw that her door of the house was opened. On seeing the police party accused petitioner tried fled away from the place of

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occurrence. She managed to fled away from the spot due to crowd. The police search for witnesses, in order to carry out search of petitioner's house but none expressed willingness to witness search and seizure. In such circumstances, members of police party Shashikant Kumar and Basant Kumar Singh consented to witness search and seizure. On search of the house of accused petitioner, 15 litre country made liquor have been recovered from the house of petitioner. Further, para 30 of the case diary shows that the petitioner has got no criminal antecedent.

This is an anticipatory bail and this Court is fully aware of the provision contained under section 76(2) of Bihar Prohibition & Excise Act, which bars the application of anticipatory bail as contained under section 438 Cr.P.C./482 of B.N.S.S. This Court is also aware that this position of law has been confirmed by full bench decision of the Hon'ble High Court, Patna rendered in the case of **Rambinay Yadav Vs. the State of Bihar, reported in 2019 (2) P.L.J.R., 1089 (F.B.)**. Accordingly the A.B.A. of the petitioner **Kailashba Devi @ Kailash Devi** is not maintainable and the same is disposed off, with a direction to the accused petitioner that he may surrender before the Trial Court, within a period of four weeks from the date of this order and may prefer regular bail and the Ld. Trial Court shall pass appropriate order, considering the facts that:-

1. The petitioner was neither present nor arrested from the place of occurrence.
2. Nothing has been recovered from the conscious possession of the petitioner.
3. Police did not complied the provision of U/s- 105 BNSS and there were no independent witnesses of seizure, both the witnesses of seizure-list were police personnels.
4. The petitioner has been implicated in this case because of being owner house.

With the above direction, the anticipatory bail application is accordingly, hereby disposed off.

(Dictated)

Sd/-

I/c.Exclusive Excise Court-I,
Jamui.