

IN THE COURT OF EXCLUSIVE EXCISE COURT-II, JAMUI

A.B.A. No. 774/2026

JAM P.S Case No. 107/2024

Dilkhush Kumar

..... Petitioner

Vrs

State of Bihar

..... O.P.

S/No.	Date	Order with signature of the Court	Office Action taken with Date
	20.06.2026	Dilkhush Kumar, aged about 25 years, s/o of Sohan Singh R/o Village-Lakhminiya, Vabhansali Ward No.24 P.S.-Baliya, District-Begusarai Petitioner. vs State of Bihar ...O.P. Present:- Ratneshwar Kumar Singh Presiding Officer Exclusive Excise Court-II, Jamui Ld. Counsel for the petitioner :- Sri Sanjay Kumar, Ld. Advocate Ld. Counsel for the O.P. :- Smt. Bibha Kumari, Spl. P.P. Date of order:- 20.06.2026. ORDER An anticipatory bail petition has been filed on behalf of above named accused/petitioner Dilkhush Kumar, who is apprehending his arrest in connection with JAM P.S. Case No. 107/2024 for committing an offence u/s-30(a) of Bihar Prohibition & Excise Act. The allegation against the petitioner is that in the course of search by police on 03.02.2024, at about 15.10 o'clock, at Chakai Check Post, under Chakai Police Station, 277.200 litres illegal foreign liquor have been recovered from a commercial tempo, Redg. No. JH-11M-1601 from the possession of F.I.R. named person and the same was seized. The petitioner is the owner of seized Tempo. Accordingly seizure list was prepared in presence of seizure list witnesses Chandan Kumar Ram and Bambam Yadav. The Ld. Counsel appearing on behalf of accused/petitioner submitted that no other bail petition prior to this had earlier been filed either before this learned court or before Hon'ble High Court at Patna under section 482 B.N.S. or 483 B.N.S. except present one. Petitioner did not get any benefit of the provision of section 35(3) B.N.S.S. The Petitioner has committed no offence and hence he is quite innocent. The allegation against the petitioner is purely false, concocted and frivolous one. Petitioner has four criminal antecedent i.e, 1. Baliya P.S. Case No. 346/20, 2. Excise Case No. 366/18, 3. 348/19, 4. Sahebpur P.S. Case No. 252/21. Nothing has been recovered either from conscious or physical possession of the petitioner. The petitioner dragged in this case because he is the	

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registered owner of the seized vehicle. The driver of the petitioner went to Deoghar in reservation and the petitioner has no knowledge about the alleged offence. All the seizure list witnesses and informant are police personnel. The allegation against the petitioner is purely false, concocted and frivolous one. The petitioner is ready to furnish bail bond to the best satisfaction of this Court. So, it is requested to grant anticipatory bail to the petitioner.

On the other hand Ld. Spl. P.P. appearing on behalf of State opposed the prayer for bail and submitted that 277.200 litres illegal foreign liquor have been recovered from a commercial tempo, Redg. No. JH-11M-1601 from the possession of F.I.R. named person and the same was seized in the presence of seizure list witnesses Chandan Kumar Ram and Bambam Yadav, so a prima facie case is made out against the petitioner and as per provision of 76(2) of Bihar Prohibition & Excise Act, the anticipatory bail of the accused/petitioner is not maintainable.

Heard both sides. Perused the F.I.R. as well as seizure list and other material available on record. From perusal of the case, it is apparent that on the basis of written statement of A.S.I Prohibition and Excise Indrajeet Singh, this case is registered. During Patrolling on 03.02.2024, at about 11:30 o'clock, police got information that a three wheeler tempo carrying illegal foreign liquor from Deoghar via Chakai-Jamui to Begusarai. After sometime at about 15:10 o'clock, police saw a commercial tempo was coming. The police stopped the tempo for checking. Upon asked the driver told his name as Ram Kumar. Thereafter, vehicle was searched in the presence of seizure list witnesses Chandan Kumar Ram and Bambam Yadav. Upon search, 277.200 litres illegal foreign liquor have been recovered from a commercial tempo, Redg. No. JH-11M-1601, Engine No. R-5-M2724819 from the possession of F.I.R. named person and the same was seized. Upon asked about the tempo the F.I.R. named person did not give clear answer. From perusal of case diary para 10 and para 14 shows that petitioner is the second owner of the seized vehicle and a notice sent to the petitioner to present his defence against his involvement in this case but neither he appeared before the police nor submitted any defence against his involvement in this case, which shows that petitioner is involved in this offence intentionally. The recovery of huge quantity of 277.200 liters of illegal liquor from petitioner's vehicle, shows that accused-petitioner is transporting the same for the purpose of manufacturing illegal liquor. From perusal of

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case diary para 15 and para 3 of the bail petition shows that petitioner Dilkhush Kumar has four criminal antecedent i.e, 1. Baliya P.S. Case No. 346/20, dt. 24.12.2020, u/s-30(a) of Bihar Prohibition and Excise Act, 2. Excise Case No. 366/18, 3. 348/19, 4. Sahebpur P.S. Case No. 252/21.

From content of F.I.R., seizure list, case diary and other materials available on record, it transpires that the offence under Bihar Prohibition & Excise Act, is attracted in this matter. The Section 76(2) of Bihar Prohibition Excise Act, bars the application of anticipatory bail as contained under Section 438 Cr.P.C. and the same has been confirmed by full bench decision of the Hon'ble High Court Patna rendered in the case of **Rambinay Yadav Vrs the State of Bihar reported in 2019 (2) P.L.J.R., 1089 (F.B.)**. Accordingly the A.B.P. of the petitioner **Dilkhush Kumar** is not maintainable and the same is hereby rejected.

(Dictated)

Ratneshwar Kumar Singh
Presiding Officer,
Exclusive Excise Court-II, Jamui.