

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.35834 of 2019**

Arising Out of PS. Case No.-84 Year-2019 Thana- BABUBARHI District- Madhubani

Rakesh Kamat @ Rakesh Kumar Kamat, Son of Suresh Kamat Resident of  
Village- Garhi, P.S.- Babubarhi, District- Madhubani.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr.Gagan Deo Yadav

For the Opposite Party/s : Mr.Madan Kumar

**CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA**  
**ORAL ORDER**

2      04-06-2019      Heard learned counsel for the parties.

The petitioner apprehends his arrest in connection with Babubarhi P.S.Case No. 84 of 2019 registered under Sections 272 and 273 of the Indian Penal Code read with Section 30(a) of the Bihar Prohibition and Excise Act, 2016.

Allegation against the petitioner, based upon the FIR lodged by the informant, who happens to be the co-villager and a private person, is that petitioner was indulged in selling of Napali liquor and informant along with other co-villagers checked the shop of the petitioner and found Nepali country made liquor in total 06 litres. Thereafter, informant and other co-villagers informed the police and police arrived and seized 06 litres of liquor from the shop of the petitioner.

Learned counsel for the petitioner submits that he has



falsely been implicated in the present case due to village rivalry inasmuch as the petitioner has been running a Kirana shop in the village and the informant, who allegedly raided the shop of the petitioner, was having some grudge against the petitioner. The recovery of alleged liquor has not been made in presence of the petitioner or from his conscious possession. It has further been submitted that witnesses in the seizurelist are the friends of the informant and no independent witness is there in the seizurelist and the seizure list has also not been prepared as per Section 100 Cr.P.C. Accordingly, learned counsel submits that from perusal of FIR, no *prima facie* offence is made out against the petitioner.

After having heard learned counsel for the parties and considering the fact that the liquor, in question, has not been recovered from the conscious possession of the petitioner or in his presence and raid was initially conducted by private persons without help of the police, I am satisfied that alleged recovery of liquor from the petitioner is suspicious and no *prima facie* offence is made out against him at this stage.

Accordingly, let the petitioner, abovenamed, in the event of arrest or surrender before the court below within a period of four weeks from the date of receipt of a copy of this order, be



released on bail upon furnishing bail bond of Rs. 10,000/- with two sureties of the like amount each to the satisfaction of the learned Additional District and Sessions Judge-II-cum-Special Judge, Excise Act, Madhubani in connection with Babubarhi P.S.Case No. 84 of 2019; subject to condition as laid down under Section 438(2) of the Code of Criminal Procedure.

**(Anil Kumar Sinha, J)**

sujit/-

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