

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.12291 of 2021**

Arising Out of PS. Case No.-354 Year-2020 Thana- BIDUPUR District- Vaishali

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Mithlesh Rai, male, aged about 39 years, S/O Horilal Ray @ Horil Ray @ Hari Ray, R/O Village-Kathaulia, Ward No.12, P.S.-Bidupur, District-Vaishali at Hajipur (Bihar).

... .. Petitioner/S

Versus

The State of Bihar

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Rakesh Kumar, Adv.

For the Opposite Party/s : Mr. APP

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**CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR**

ORAL ORDER

2      23-12-2021              Mr. Rakesh Kumar, the learned Advocate for the petitioner seeks permission the make necessary correction in the prayer portion and the index page of this application regarding the name of the police station as in place of Bidupur P.S. Case No. 354 of 2020, inadvertently, Doriganj P.S. Case No. 172 of 2020 has been typed.

Let such correction be carried out during the course of the day.



Heard the counsel for the parties.

The petitioner seeks bail in anticipation of his arrest in connection with Bidupur P.S. Case No. 354 of 2020, dated 12.09.2020, instituted for the offences under Section 30(a) of the Bihar Prohibition and Excise (Amendment) Act, 2018.

25 litres of liquor is said to have been recovered from near the hut of the petitioner. On the basis of the aforesaid recovery, the petitioner is sought to be prosecuted in this case. Before the raid, the hut of the petitioner was raided, but the recovery has been made from a nearby place.

It has been submitted on behalf of the petitioner that the place of recovery is an open space and, therefore, any recovery from that place cannot exclusively be saddled upon him, even on the basis of suspicion that he has been indulging in brewing liquor locally.

The petitioner has clean antecedents.

Thus, on the aforesaid fact, it has been urged that the offence under the Excise Act cannot be said to have been



made out against the petitioner.

For the reasons afore-stated, the petitioner, in the event of his arrest or surrender before the learned Court below within a period of four weeks, is directed to be released on bail on his furnishing bail-bonds in the sum of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Addl. Sessions Judge-II-Cum-Special Judge, Excise Court, Vaishali at Hajipur in connection with Bidupur P.S. Case No. 354 of 2020, subject to the conditions laid down under Section 438(2) of the Cr.P.C.

The application stands allowed.

**(Ashutosh Kumar, J)**

Praveen-II/-

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