

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.22828 of 2021**

Arising Out of PS. Case No.-298 Year-2020 Thana- BOCHAHAN District- Muzaffarpur

Prem Chandra Lok @ Hars Lal Rai, aged about 46 years, (Male), son of late  
Arjun Rai, resident of village- Garhan, P.S.- Ahiyapur, District- Muzaffarpur  
... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr. Ajay Kumar Thakur, Advocate  
For the State : Mr. Uma Nath Mishra, APP

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH**  
**ORAL JUDGMENT**

**Date : 13-08-2021**

The matter has been heard *via* video conferencing.

2. Heard Mr. Ajay Kumar Thakur, learned counsel for the petitioner and Mr. Uma Nath Mishra, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

3. The petitioner apprehends arrest in connection with Bochahan PS Case No. 298 of 2020 dated 08.11.2020, instituted under Sections 272, 273, 120-B of the Indian Penal Code and 30(a), 32(ii) and 41(a) of the Bihar Prohibition and Excise Act, 2016 (hereinafter referred to as the 'Act').

4. The allegation against the petitioner is that from the school which was being run on the land jointly owned by the petitioner and his nephew, huge quantity of liquor was



recovered by the police.

5. Learned counsel for the petitioner submitted that he has been erroneously named as an accused only on the ground that the ownership of the land on which the school was constructed was in his joint name. It was submitted that in the year 2016 itself, it had been given on lease for a period of five years to co-accused Amrendra Kumar on a monthly rental of Rs. 7,000/-, but due to lock-down, on 22<sup>nd</sup> October, 2020, a revised agreement was entered into reducing the monthly rent to Rs. 3,500/-. It was submitted that there is nothing to connect the petitioner to the recovered article or to show that he was in any way dealing with the premises from where such recovery has been effected. Learned counsel submitted that he has also filed supplementary and second supplementary affidavit in which the photo copies of the rent agreement have been brought on record which indicates that he and his nephew had given the said piece of land to co-accused Amrendra Kumar. It was submitted that the said rent was given beginning from 16.01.2016 and thereafter, rent was reduced in view of COVID- 19 pandemic. Learned counsel submitted that he has also filed Income Tax Returns to indicate that the rent from Amrendra Kumar was shown before the Income Tax authorities. It was further



submitted that there is no other criminal antecedent of the petitioner and summing up his arguments, learned counsel submitted that as the recovery of liquor cannot be connected to the petitioner, the bar of Section 76(2) of the Act would not apply.

6. Earlier, by order dated 08.06.2021, the Court had called for the up-to-date legible photo copy of the entire case diary from the Senior Superintendent of Police, Muzaffarpur as well as a detailed report with regard to the authenticity of the initial rent agreement as also the subsequent rent agreement as also whether the petitioner had any role in the affairs of the school, more so, as the school is in the name of his late father.

7. Learned APP submitted that he has received copy of the entire case diary and the information asked by the Court is also contained therein. It was submitted that witnesses have stated that the petitioner has given the land in question, to co-accused, Amrendra Kumar, on lease and the school was being run by Amrendra Kumar and the petitioner was not involved in the same.

8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, it appears that there is material to indicate that the land, though



belonging to the petitioner, had been leased to co-accused Amrendra Kumar from 2016 and the recovery of liquor having been made in November, 2020, when the period of lease was continuing as also the said fact of lease being corroborated by various documents and witnesses as also the petitioner having no other criminal antecedent, the Court is inclined to allow the prayer for pre-arrest bail.

9. Accordingly, in the event of arrest or surrender before the Court below within six weeks from today, the petitioner be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned Special Judge, Excise, Muzaffarpur, in Bochahan PS Case No. 298 of 2020, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973 and further (i) that one of the bailors shall be a close relative of the petitioner and (ii) that the petitioner shall cooperate with the Court and the police/prosecution. Failure to cooperate shall lead to cancellation of his bail bonds.

10. It shall also be open for the prosecution to bring any violation of the foregoing conditions of bail by the petitioner, to the notice of the Court concerned, which shall take



immediate action on the same after giving opportunity of hearing to the petitioner.

11. The petition stands disposed of in the  
aforementioned terms.

**(Ahsanuddin Amanullah, J)**

J. Alam/-

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