

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48159 of 2023

Arising Out of PS. Case No.-12 Year-2021 Thana- MEHSI District- East Champaran

Subhash Prasad @ Subhash Kumar Son Of Hiralal Bhagat Resident Of
Village- Bathana, Police Station- Mehshi, District- East Champaran

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr. Arun Kumar Pandey, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 11-08-2023 Heard Mr. Pravin Kumar Gupta, learned counsel
appearing on behalf of the petitioner and learned Additional
Public Prosecutor for the State.

2. The petitioner apprehends his arrest in connection
with Mehshi P.S. Case No. 12 of 2021, registered for the offences
punishable under Sections 30(a), 32 and 41(i) of the Bihar
Prohibition and Excise (Amendment) Act, 2018.

3. Allegedly, in course of patrolling, the police
received a secret information whereupon they raided the village
Manjhan Chapra, however, on noticing the police party two
persons who were present there succeeded in fleeing away. On
search, total 51.45 litres of Indian made foreign liquor was
recovered.

4. Learned counsel appearing on behalf of the



petitioner submits that in fact on account of past two criminal antecedents, the name of the petitioner has been implicated in the present case which shows nothing but the high handedness of the police. He next submits that admittedly the alleged recovery has been made from the land of one Laxman Mallik in village Manjhan Chapra and moreover, the petitioner has neither any concern with the land nor with the illicit recovered wine. He next submitted that there are various other infirmities in search and seizure. That apart, the petitioner undertakes that he will fully cooperate in the investigation/trial.

5. Learned counsel for the State opposes the bail application and submits that the petitioner is carrying two criminal antecedents over his head, apart from the fact that the anticipatory bail application would not be maintainable in view of bar of Section 76(2) of the Bihar Prohibition and Excise Act.

6. Regard being had to the submissions made on behalf of the parties and considering the fact that the alleged recovery has been made from the open field of Laxman Mallik and save and except the suspicion, there is nothing against the petitioner and the learned Full Bench of this Court in the case of **Ram Vinay Yadav vs. The State of Bihar** reported in **2019(2) PLJR 1089** has crystallized the situation where the anticipatory



bail can be entertained, let the petitioner abovenamed be released on bail, in the event of his arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, upon furnishing bail bonds of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned Exclusive Special Court No. 1, East Champaran, Motihari in connection with Mehsi P.S. Case No. 12 of 2021, subject to the conditions laid down in Section 438(2) Cr.P.C. with the further condition that one of the bailors shall be the own/close family members of the petitioner.

(Harish Kumar, J)

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