

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.56427 of 2023

Arising Out of PS. Case No.-177 Year-2023 Thana- MAIRWAN District- Siwan

Raju Miyan @ Raju Ali S/O Jhhangur Miyan R/O Village- Miskarahi Rani,
P.S.- Mairwa, Dist.- Siwan

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Pandey, Adv.

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

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 08-11-2023 Heard Mr. Sanjay Kumar Pandey, learned counsel
appearing on behalf of the petitioner and Manoj Kumar, learned
Additional Public Prosecutor for the State.

2. The petitioner apprehends his arrest in connection
with Mairwan P.S. Case No. 177 of 2023, registered for the
offences punishable under Section 30(a) of the Bihar Prohibition
and Excise Act, 2016.

3. The police, on a secret information regarding
involvement of the petitioner in sale of illicit wine, conducted
raid. However, on noticing the police party, the petitioner and
others succeeded in fleeing away. On search, 17.920 litres illicit
wine has been recovered from a bag.

4. It is submitted on behalf of the petitioner that from
the FIR it is evident that the alleged recovery has not been made



from the house of the petitioner, rather the same has been made in front of his house, which is an open place accessible to all. He further submits that, in fact, in course of raid, the police has recovered a bag containing illicit wine but on account of the past criminal antecedent of the petitioner of identical nature, his name has been implicated in this case, that apart, there are other infirmities in the search and seizure. Moreover, the petitioner undertakes that he will fully cooperate in the investigation or in the proceeding of the court.

5. On the other hand, learned counsel for the State opposes the bail application and submits that the alleged recovery has been made in front of the house of the petitioner and, as such, his complicity cannot be denied.

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 an open place which is accessible to all, apart from other infirmities in the search and seizure, 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 Excise Court No. 1, Siwan, in connection with Mairwan P.S. Case No. 177 of 2023, 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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