

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.64742 of 2023

Arising Out of PS. Case No.-90 Year-2023 Thana- BAIRIYA District- West Champaran

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Ashok Singh @ Ashok Rao Son Of Late Hemanchal Rao @ Hawenchal Rao
Village- Laukariya Mauja Tola Ps- Bairiya Dist- W.Champaran

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Anant Kumar Mishra, Advocate
For the Opposite Party/s : Ms. Sangeeta Sharma, APP

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 17-10-2023 Heard Mr. Anant Kumar Mishra, learned counsel

appearing on behalf of the petitioner and learned counsel for the

Additional Public Prosecutor for the State.

2. The petitioner apprehend his arrest in connection
with Bairiya P.S. Case No. 90 of 2023, registered for the
offences punishable under Section 30(a) of Bihar Prohibition
and Excise Act.

3. The police on a tip of information with regard to
the trade of illicit wine raided the place of occurrence, however,
on noticing the police party, allegedly one person fled away by
throwing his plastic bag. In course of search, total 8.6 litres of
country made liquor was found. It is further alleged that the



local Chowkidar identified the person, who succeeded in fleeing away as the petitioner.

4. It is submitted on behalf of the petitioner that from the seizure list, it is evident that the alleged recovery has been made beside the house of the petitioner from a *baswari*, which is a public place accessible to all and the petitioner cannot be held responsible for the same. It is further submitted that only on account of a past criminal antecedent of identical nature, his name has been implicated in this case on mere suspicion, that too on the basis of a secret information and disclosure of the local Chowkidar. He next submitted that there are other infirmities in the search and seizure and moreover the identification as has been alleged in the present case appears to be quite doubtful as the raid was conducted in the night at about 8.00 PM.

5. On the other hand, learned counsel for the State opposes the bail application.

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 accessible to all and the identification of the petitioner appears to be doubtful, 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 Judge Excise, Bettiah, West Champaran in connection with Bairiya P.S. Case No. 90 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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