

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.75270 of 2023

Arising Out of PS. Case No.-133 Year-2023 Thana- ARER District- Madhubani

MANISH KUMAR JHA @ MANISH JHA, aged about 23 years, Male, SON
OF LAL MOHAN JHA, RESIDENT OF VILLAGE - ARER DIH TOLA,
P.S. - ARER, DISTRICT – MADHUBANI Petitioner/s
Versus

THE STATE OF BIHAR Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Subhash Kumar Jha, Advocate
For the Opposite Party/s : Mr.Dashrath Mehta, APP

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 29-11-2023 Heard Mr. Subhash Kumar Jha, learned counsel

appearing on behalf of the petitioner and Mr. Dashrath Mehta

learned APP for the State.

2. The petitioner seeks pre-arrest bail in connection
with Arer P.S. Case No. 133 of 2023 dated 31.08.2023
registered for the offence(s) punishable under Sections 272, 273,
34 of the Indian Penal Code and Section 30(a) of the Bihar
Prohibition and Excise Act.

3. As per the allegation made in the FIR, 219.96
litres of foreign liquor has been recovered from the house of one
Atal Jha. Petitioner is named in the FIR.

4. Learned counsel appearing on behalf of the
petitioner submitted that different brands of Indian made foreign
liquor were recovered from the house of Atal Jha, who has not
been deliberately named in the FIR to save him. Connivance of
police officer, who constituted the raiding team cannot be



denied in sale and trade of illicit liquor in the State of Bihar and to cover up their offence, the petitioner has been made accused in the present case. Petitioner has made a specific statement in paragraph no.7 of the bail application which is reproduced hereinafter:

“7. That it is pertinent to mention here in that after bare perusal of F.I.R., it would be evident that police recovered 219.96 litres of Foreign Liquor from the Asbestos House of the Atal Jha and petitioner is neither concern with said Atal Jha nor the alleged liquor belongs to the petitioner.”

5. Learned APP for the State vehemently opposed the prayer for grant of pre-arrest bail.

6. Considering the nature of allegation made in the FIR, as well as, the fact that the recovery of the 219.96 litres of illicit foreign liquor was made from the house of Atal Jha and petitioner is not involved in the alleged sale and trade of illicit liquor, I am of the opinion that petitioner has, *prima facie*, made out a case to be released on pre-arrest bail.

7. The petitioner, above named, is directed to be released on pre-arrest bail, in the event of his arrest or surrender before the Court below within a period of four weeks from today, on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge 2nd -cum-



Special Judge, Excise Act, Madhubani in connection with Arer
P.S. Case No. 133 of 2023, subject to the conditions as laid
down under Section 438(2) of the Cr.P.C.

8. This Court has found that such a large scale of
illicit trade of liquor is not possible in the State of Bihar without
there being any connivance of the State authorities and the
police officials.

9. The District Court is directed to call the
Superintendent of Police concerned by fixing a date, so that he
can take appropriate action against the raiding team who has
deliberately not mentioned the name of the owner of the house
and as such their complicity in the offence cannot be denied.

10. The District Court is directed to first verify from
the case diary as to whether the name of owner of the house Atal
Jha has surfaced in course of investigation. In case, his name
does not surface, there is no requirement of summoning the
Superintendent of Police.

11. With the aforesaid observation/direction, the
application stands disposed of.

(Purnendu Singh, J)

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