

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.76184 of 2023

Arising Out of PS. Case No.-321 Year-2023 Thana- UJIYARPUR District- Samastipur

=====

MUKESH KUMAR Son of Rambali Ray R/o vill - Bhagwanpur Desua, P.S. -
Ujiarpur, Distt. - Samastipur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Ms. Khushi Awadh, Advocate

For the Opposite Party/s : Mr. Kanhaiya Kishore, APP

=====

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 29-11-2023 Heard Ms. Khushi Awadh, learned counsel appearing
on behalf of the petitioner and the learned APP for the State.

2. The petitioner is apprehending his arrest in connection with Ujiarpur P.S. Case No. 321 of 2023 registered for the offences under Sections 30(a), 41(i), 41(ii) of the Bihar Prohibition and Excise Act.

3. Allegedly on a secret information in connection with trade of illicit wine, the police conducted raid, however, noticing the police party, the person, who was sitting on the Bullet motorcycle and standing there, succeeded in fleeing away. On search, 604 litres of beer and the motorcycle were recovered and seized.

4. It is submitted on behalf of the petitioner that from the narrations made in the F.I.R., it is evident that the alleged



recovery has been shown to be made from a newly constructed house and the fact is that the house was not being used for the purpose of accommodation and, as such, it was easily accessible to all. Ms. Khushi, learned counsel for the petitioner next submitted that the petitioner has neither any concern with the alleged recovered illicit beer nor with the motorcycle. She further submits that only on account of past criminal antecedent of identical nature, the name of the petitioner has been implicated in this case. Moreover, there is no other material suggesting the complicity of the petitioner in the present case. She lastly submits that there are other various infirmities in the search and seizure, inasmuch as, there is no compliance of Section 100(6) of the Cr.P.C. The petitioner undertakes that he will cooperate in the investigation or in the proceeding of the Court.

5. On the other hand, learned APP for the State opposes the bail application and submits that huge quantity of illicit beer has been recovered from the house of the petitioner.

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 a newly constructed house, where none is residing, coupled with the infirmities, as shown in the



search and seizure and the undertaking given by the petitioner, let the petitioner, named above, in the event of his arrest or surrender before the court below within four weeks from the date of receipt/production of a copy of this order, be released on bail on furnishing bail bonds of Rs.20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, Excise Court No.1, Samastipur in connection with Ujiarpur P.S. Case No. 321 of 2023, subject to the condition as laid down under Section 438 (2) of the Cr.P.C. with the further condition that one of the bailors shall be the own/close relative of the petitioner.

(Harish Kumar, J)

uday/-

U		T	
---	--	---	--

