

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32937 of 2024

Arising Out of PS. Case No.-221 Year-2023 Thana- THAKURGANJ District- Kishanganj

Sanjay Khariya, Son of Silik Khariya, Resident of Village - Lebhiyabhitha
Tapas Quarter, PS- Thakurganj, Dist- Kishanganj

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr. Nitya Nand Tiwary, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 28-05-2024 Heard Mr. Raj Kumar, learned counsel for the
petitioner and learned APP for the State.

2. The petitioner apprehends his arrest in connection with Special Case No. 474 of 2023 arising out of Thakurganj P.S. Case No. 221 of 2023 registered for the offence punishable under Section 30(a) of the Bihar Prohibition and Excise Act, 2016.

3. The police on a secret information with regard to selling of illicit liquor, raided the place of occurrence. Noticing the police party, the person assembled there succeeded in fleeing away. However, the petitioner was identified by one of chawkidars, namely, Monglu Singh. On search, total 22 lts. of Chulai Deshi liquor was recovered behind rear side of the house of the petitioner.



4. It is contended on behalf of the petitioner that name of the petitioner has been implicated in this case only on account of the fact that the alleged recovery has been made from rear side of the house of the petitioner. However, the petitioner has no concern with the alleged recovered illicit wine nor there is any other material which has come during the course of investigation, suggesting complicity of the petitioner in the present crime. It is next contended that had the recovery been made from the courtyard, or any other place said to be in the possession of the petitioner, the police would have certainly handed over the copy of the seizure list to the petitioner or at least there must be signature of his family members on the seizure list but this is not the case of the prosecution. It is lastly contended that the petitioner is a man of fair antecedent and he 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 vehemently opposed the bail application and submitted that the present anticipatory bail application is not maintainable in view of Section 76(2) of the Bihar Prohibition and Excise Act, 2016.

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 back side of the house of the petitioner which is not in his possession, moreover, it is an open place and easily accessible to all, coupled with the fair antecedent and also in view of the observation made by the Full Bench of this Court in **Ram Vinay Yadav v. The State of Bihar [2019(2) PLJR 1089]**, let the above named petitioner, be released on bail, in the event of his arrest or surrender before the learned Court below within a period of four weeks from today, on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned A.D.J.-II-cum-Special Judge (Excise-I), Kishanganj, Bihar in connection with Special Case No. 474 of 2023 arising out of Thakurganj P.S. Case No. 221 of 2023, subject to the condition as laid down under Section 438(2) of the Cr.P.C, with further condition that one of the bailors shall be the own/close family members of the petitioner.

(Harish Kumar, J)

rohit/-

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

