

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38756 of 2024

Arising Out of PS. Case No.-37 Year-2024 Thana- BAIKUNTHPUR District- Gopalganj

Shiva Ray @ Shiva Kumar Yadav @ Shiva Kumar Son of Zamindra Ray @
Jhamendra Ray R/O Village- Pakha, P.S.- Baikunthpur, District- Gopalganj,
At Present R/O Vill.- Bamo, P.S.- Baikunthpur, Dist.- Gopalganj

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Subhash Kumar, Advocate
For the Opposite Party/s : Mr. Upendra Kumar, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 26-06-2024 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

02. In the present case, the petitioner is apprehending his arrest in connection with Baikunthpur P.S. Case No. 37 of 2024 registered for the alleged offence under Section 30(a) of the Bihar Prohibition and Excise Act, 2016.

03. As per prosecution case, the police received secret information about the petitioner and co-accused hiding illicit liquor in their ploughed land. A raid was conducted at the spot and two persons were found concealing something by digging the field, who fled away on seeing the police party. One of them was identified as the petitioner by the local *Chowkidar*. On search, 400 liters of spirit was recovered, which was concealed under the ground in *drum* and *jar*.



04. Learned counsel for the petitioner submits that petitioner is innocent and has been falsely implicated in this case. Nothing incriminating has been recovered from the person or possession of this petitioner. The petitioner has been made accused at the instance of local *chowkidar*. The petitioner has no concern with the said land from where the recovery has been shown. The provision of Section 100 of the Cr.P.C. has not been followed in preparation of seizure list. Furthermore, the recovery has been made from an open place, which is accessible to all. The petitioner is having criminal antecedent of two cases in which he is on bail and these cases are not of similar nature.

05. Learned A.P.P. for the State opposes the prayer for anticipatory bail. Learned APP submits that a large quantity of spirit was recovered from the land which belongs to this petitioner, who is having criminal antecedent of two cases.

06. Having regard to the facts and circumstances and submission made on behalf of the parties and considering the fact that no recovery has been shown from person or possession of the petitioner and further considering the possibility of false implication, let the petitioner above named, in the event of his arrest or surrender before the court concerned within a period of eight weeks from today, be released on bail, on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand Only) with two



sureties of the like amount each to the satisfaction of learned Additional District & Sessions Judge-XIII-cum-Special Excise Court No. 1, Gopalganj in connection with Baikunthpur P.S. Case No. 37 of 2024, subject to the condition laid down under Section 438(2) of the Code of Criminal Procedure and other following conditions:

- (i) One of the bailors will be a close relative of the petitioner.
- (ii) The petitioner will remain present on each and every date fixed by the court below, if so required by the learned trial court.

(Arun Kumar Jha, J)

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