

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40797 of 2024

Arising Out of PS. Case No.-65 Year-2024 Thana- MANSI District- Khagaria

Kamalesh Yadav @ Kamalesh Kumar, S/o Vinod Yadav, R/o Village-Banglia,
P.O-Rohiyar, P.S.-Mansi, District-Khagaria

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shailendra Kumar Singh, Advocate
For the Opposite Party/s : Mr. Harendra Prasad, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 03-07-2024 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. In the present case, the petitioner is apprehending his arrest in connection with Mansi P.S. Case No. 65 of 2024 registered for the alleged offences under Section 30(a) of the Bihar Prohibition & Excise Act, 2022.

3. As per prosecution case, police received secret information about petitioner manufacturing illicit liquor on his land. A raid was conducted in the maize field of the petitioner and a person fled away from the spot on seeing the police party but he was identified by the local *Chowkidar*. On search of the said land, recovery of 20 litres of country made liquor and one gas cylinder were made. Further, 100 liters of raw materials and other equipments were destroyed at the spot.



4. Learned counsel appearing on behalf of the petitioner submits that the petitioner is innocent and has been falsely implicated in this case. Petitioner was not apprehended from the spot and nothing incriminating has been recovered from his person or possession. From perusal of FIR, it is evident that recovery has been made from an open place and the petitioner could not be fastened with liability for the alleged recovery. For this reason no offence under Section 30(a) of the Excise Act is made out against the petitioner. Petitioner is having clean antecedent.

5. Learned APP opposes the submission made on behalf of the petitioner.

6. Having regard to the facts and circumstances and submissions made on behalf of the parties and considering the fact that no recovery has been shown from this petitioner and recovery has been made from an open place and also considering the clean antecedent of the petitioner coupled with possibility of false implication, let the petitioner named above, 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 Special Additional Judge Excise-IIInd, Khagaria/court concerned in connection with Mansi P.S. Case No. 65 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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