

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.81811 of 2024

Arising Out of PS. Case No.-234 Year-2024 Thana- GHANSHYAMPUR District- Darbhanga

Pradeep Sahu @ Pradeep Kumar Sahu S/o- Deolal Sahu R/O Mongra, P. S.
Ghanshyampur, District - Darbhanga

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Nawal Kishor Prasad, Adv.

For the Opposite Party/s : Mr. Satyendra Narayan Singh, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 11-12-2024 Heard the learned Advocate for the petitioner and the
learned APP for the State.

2. The petitioner apprehends his arrest in connection with Ghanshyampur P.S. Case No. 234 of 2024, registered for the offences punishable under Sections 30(a) of the Bihar Prohibition and Excise Act, 2018.

3. The allegation against the petitioner is of involved in trade of illicit wine. The police on a secret information conducted raid and in course of search 140.4 liters of Indian made foreign liquor was recovered from the orchard of *Umesh Yadav* and 51.84 liters of Indian made foreign liquor was recovered from the cattle house of *Kailash Yadav*.

4. Learned Advocate for the petitioner referring to the FIR firstly contended that the alleged recovery has not been



made from the conscious and constructive possession of the petitioner. Irrespective of the fact that only on account of one past criminal antecedent of identical nature, the name of the petitioner has been implicated in this case. Save and except the suspicion, there is no material suggesting the complicity of the petitioner in the crime. It is further contended that the seizure list witnesses are non-else but the police personnel and, as such, in complete defiance of the prescription, as provided under Section 100 of the Cr.P.C. The petitioner undertakes that he will fully co-operate in the investigation or in the proceeding of the Court.

5. On the other hand, learned counsel for the State opposed the pre-arrest bail application.

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 the mango orchard and the cattle house, and the petitioner has neither any concern with the place of recovery nor with the illicit wine and, as such, there is no recovery from the conscious or constructive possession of the petitioner, thus the bar provided under Section 76(2) of the Excise Act is not applicable, let the petitioner above named be released on bail, in the event of his arrest or surrender before the



court below within a period of four weeks from the date of receipt/production of a copy of this order, upon furnishing bail bonds of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned Exclusive Special Judge-II, Excise Act, Darbhanga in connection with Ghanshyampur P.S. Case No. 234 of 2024, subject to the conditions laid down in Section 438(2) Cr.P.C. with the further condition that one of the bailors shall be the own/close family members of the petitioner.

(Harish Kumar, J)

shivank/-

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

