

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.81620 of 2024**

Arising Out of PS. Case No.-101 Year-2024 Thana- TERHAGACHH District- Kishanganj

Dinesh Malakar S/o Budhlal Malakar Resident of Chargharia, ward no. 10, PS  
- Tedhagachh, Distt.- Kishanganj

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

|                      |   |                                                                                           |
|----------------------|---|-------------------------------------------------------------------------------------------|
| For the Petitioner/s | : | Mr. Raj Kumar, Advocate<br>Mr. Pratik Kumar, Advocate<br>Mr. Abhash Priyadarshi, Advocate |
| For the State        | : | Ms. Veena Kumari Jaiswal, APP                                                             |

**CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR**  
**ORAL ORDER**

2      04-12-2024                      Heard Ld. counsel for the petitioner and Ld. APP for  
the State.

2. The present petition has been filed on behalf of the petitioner, apprehending his arrest, in connection with Tedhagachh P.S. Case No. 101 of 2024, dated 13.09.2024, registered for the offences punishable under Section 30(a) of the Bihar Prohibition and Excise (Amendment) Act, 2022.

3. As per the allegation, 10.5 litre of country made liquor has been recovered from the house of the petitioner.

4. Ld. counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated. He further submits that the search and seizure of the alleged illicit liquor is violative of Sections 103 and 105 of BNSS, 2023, as per which,



the search and seizure must be done in the presence of the independent witnesses as well as respectable persons and video recording of the full process of the search and seizure is also required to be done. But nothing of the sort has been done by the police and whole recovery is suspicious and as such, there is no legal evidence against the petitioner and petitioner's liberty cannot be curtailed on such material. He further submits that petitioner is entitled to get anticipatory bail.

5. It is also stated in paragraph no. 2 of the bail petition that the petitioner has not moved this Court earlier either for anticipatory bail or regular one in the instant case.

6. It has further been stated in paragraph no.3 of the petition that the petitioner has been made accused in two other cases.

7. However, Ld. APP for the State vehemently opposes the prayer of the petitioner for bail.

8. Considering the aforesaid facts and circumstances, **this petition is allowed**, directing the petitioner, above-named, to be enlarged on bail, in the event of his arrest or surrender before the court below within a period of eight weeks from the date of receipt/production of a copy of this order, on his furnishing bail bonds in the sum of Rs.10,000 /-(Rupees Ten



Thousand) with two sureties of the like amount each to the satisfaction of Ld. A.D.J.-II-cum-Exclusive Special Judge (Excise-I), Kishanganj, in connection with Tedhagachh P.S. Case No. 101 of 2024, subject to the conditions as laid down under Section 438 (2) Cr.P.C. and on the following conditions:

(i) In case, it is brought to the notice of the court below that the petitioner has criminal antecedents other than the disclosed one, Ld. court below shall cancel the bail bonds of the petitioner after hearing him and getting satisfied that the petitioner has concealed his criminal antecedents despite his knowledge of the same.

(ii) In case, it is brought to the notice of the court below that statement regarding previous bail petition is wrong, Ld. court below shall cancel the bail bonds of the petitioner.

**(Jitendra Kumar, J.)**

ravishankar/-

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