

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.81224 of 2024

Arising Out of PS. Case No.-82 Year-2024 Thana- LAUHIYANAGAR District- Begusarai

Ranjan Kumar @ Ranjan Singh @ Sonu, Son of Late Devendra Singh @ Devendra Prasad Singh, Resident of village- Anandpur, P.S- Lohiyanagar, Dist- Begusarai, Bihar, At Present R/o Ward no. 12, Ibrahimpur at Village- Lakhanpatti, Ps- Chhaudahi, Dist- Begusarai

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Ms. Divyani Shekhar, Advocate

For the Opposite Party/s : Ms. Shaheen Begum, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 04-12-2024 Heard Ms. Divyani Shekhar, learned counsel

 appearing on behalf of the petitioner and the learned Additional

 Public Prosecutor for the State.

2. The petitioner apprehends his arrest in connection with Lohiya Nagar P.S. Case No. 82 of 2024, registered for the offences punishable under Sections 30(a) of the Bihar Prohibition and Excise Amendment Act, 2018.

3. On a tip off trade of illicit wine, the police conducted raid in the house of the petitioner and in course of search total 6 litres of Indian made foreign liquor was recovered.

4. Learned Advocate appearing on behalf of the petitioner drawing the attention of this Court to the FIR



primarily contended that the alleged recovery has been made from an under constructed disputed house of the petitioner, which is easily accessible for all. It is further contended that there is serious infirmities in the search and seizure, apart from non-compliance of Section 105 of the Bharatiya Nagarik Suraksha Sanhita, 2023. Referring to the afore-noted submissions, it is next contended that there is no recovery from the conscious or constructive possession of the petitioner and, as such, the bar provided under Section 76(2) of the Excise Act, is not applicable in the present case. It is also the contention of the petitioner that had the recovery been made from the house of the petitioner, there would have been signature of any of the family members. The seizure list witnesses are none else but the police personnels and, as such, *mala fide* is also writ large on the part of the police officials.

5. On the other hand, learned Advocate for the State opposed the pre-arrest bail application and submits that recovery of illicit wine from the house of the petitioner speaks loud.

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 an under constructed house coupled with the infirmities in the search and seizure and the



fair antecedent, 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 Excise Judge-I, Begusarai in connection with Lohiya Nagar P.S. Case No. 82 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)

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