

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.81842 of 2024

Arising Out of PS. Case No.-262 Year-2021 Thana- ATHMALGOLA District- Patna

Mantosh Yadav @ Santosh Yadav, Son of Sri Kamo Yadav, Resident of
Chanda, P.S- Athmalgola, District- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Kumar Manglam, Advocate

For the Opposite Party/s : Mrs. Pushpa Sinha, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

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

2. The petitioner is apprehending his arrest in connection with Athmalgola P.S. Case No. 262 of 2021 registered for the offence punishable under Section 30 (a) of the Bihar Prohibition and Excise Act, 2016.

3. The allegation against the petitioner is of involved in selling of illicit liquor. The police on a confidential information raided the house of the petitioner. However, on noticing the police party, it is alleged that one person succeeded in fleeing away. On search, in front of the house of the petitioner, a gallon, containing 10 litres of country made liquor, was recovered. The local *Chaukdiar* has disclosed the name of the person, who succeeded in fleeing away near the vicinity, as



the petitioner.

4. Learned Advocate for the petitioner contended that in fact nothing has been recovered from the conscious or constructive possession of the petitioner. However, only on account of one past criminal antecedent of the petitioner of identical nature, his name has been implicated in this case on mere suspicion. The identification of the petitioner by the *Mahal Chaukidar* in the night is also doubtful. That apart, the seizure list witnesses are non-else, but the police personnel and, as such, defiance of the prescription provided under Section 100 of the Cr.P.C. The petitioner undertakes that he will fully cooperate in the investigation or in the proceeding of the court.

5. On the other hand, learned APP for the State vehemently opposes the bail application and submits that apart from the fact that the case is of the year 2021, the petitioner bears one criminal antecedent over his head.

6. Regard being had to the submissions made on behalf of the parties and considering the fact that the alleged recovery has been made in front of the house of the petitioner, which is an open place, easily accessible to all, coupled with the infirmities in the search and seizure, let the petitioner, named above, in the event of his arrest or surrender before the court



below within four weeks from the date of receipt/production of a copy of this order, be released on bail on furnishing bail bonds of Rs.10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge (Excise), Barh, Patna in connection with Athmalgola P.S. Case No. 262 of 2021, subject to the condition as laid down under Section 438 (2) of the Cr.P.C. with the further condition that one of the bailors shall be the own/close relative of the petitioner.

(Harish Kumar, J)

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