

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.81810 of 2024

Arising Out of PS. Case No.-141 Year-2024 Thana- Excise P.S. District- Supaul

Lakshman Kumar S/o- Late Sanjay Yadav Village- Pathra W.No-6, Ps- Pipra
Dist-Supaul

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Binod Kumar Sinha, Adv.

For the Opposite Party/s : Ms. Pronoti 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 Excise Supaul P.S. Case No. 141 of 2024, registered for the offences punishable under Sections 30(a) of the Bihar Prohibition & Excise Act, 2016.

3. The allegation against the petitioner is of involved in sell of illicit wine. The police on a secret information conducted raid in the house of the petitioner and on search from a Hero Honda motorcycle kept in a courtyard, 3.600 liters country made liquor and further 36 liters kept on the corner of the courtyard were recovered.

4. Learned Advocate for the petitioner contended that in fact the courtyard, in question, from where the entire recovery



is shown to have been made, is an open place, easily accessible to all. It is further contended that the petitioner has neither any concern with the motorcycle nor with the illicit wine. Had the recovery been made from the house of the petitioner, the copy of the seizure list would have certainly been given to the family member of the petitioner or the seizure list witnesses must be an independent person, but surprisingly, in the case in hand, both the seizure list witnesses are non-else but the police personnel. It is next contended that in fact one past criminal antecedent of identical nature is the reason for false implication of the petitioner.

5. On the other hand, learned counsel for the State opposed the pre-arrest bail application and submits that the alleged recovery from the courtyard of the petitioner along with the criminal antecedent, clearly suggest the involvement of the petitioner, apart from the prescription under Section 76 (2) of the Bihar Prohibition & Excise Act. The petitioner does not deserve the anticipatory bail.

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 courtyard, which is an open place, easily accessible to all, coupled with the infirmities in the



search and seizure and the mandate of the Full Bench decision of this Court in the case of *Ram Vinay Yadav vs. The State of Bihar* reported in *2019(2) PLJR 1089* and the undertaking of the petitioner before this Court that he will fully co-operate in the investigation or in the proceeding of the Court, 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 Excise Court No. 2, Supaul in connection with Excise Supaul P.S. Case No. 141 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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