

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.7332 of 2025

Arising Out of PS. Case No.-425 Year-2024 Thana- BAIRIYA District- West Champaran

Dhamu Mahto @ Subash Mahto @ Dham Mahto son of Sipahi Mahto
village- Hatt Sarraiya Dih, Ps- Bairiya, dist- West champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Bimlesh Kumar Pandey

For the Opposite Party/s : Mr.Md. Anzarul Haque Sahara

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 14-02-2025 Heard learned Advocate for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner apprehends his arrest in connection with Bairiya P.S. Case No. 425 of 2024, registered for the offences punishable under Section 40 of the Bihar Prohibition and Excise (Amendment) Act, 2018.

3. Based upon the prosecution report, it alleges that the informant received a secret information regarding viral video and in course of enquiry the informant learnt that four persons were standing at the place of occurrence and the petitioner was carrying a can beer in his hand. One Chowkidar namely, Surendra Kumar was also standing there. The other two persons were also present there. It was verified that the accused persons, including the petitioner, are engaged in illegal trade of



liquor and has gone to jail for liquor smuggling for several times.

4. Learned Advocate for the petitioner contended that the entire FIR is based upon a viral video but it has not been disclosed that the video is of which year, the date and time or whether it is prior to the coming into force the Bihar Excise and Prohibition Act. It is further contended that even if the allegation is taken to be true, no offence much less under Section 40 of the Bihar Prohibition and Excise Act is made out as for constituting an offence under Section 40 there must be solicitation on the part of the petitioner. Co-accused Surendra Kumar @ Surendra Mahto, who was made accused in this case has been allowed the privilege of anticipatory bail by this Court in Cr. Misc. No. 89221 of 2024 vide order dated 08.01.2025.

5. On the other hand, learned Advocate for the State opposes the bail application and submits that the criminal antecedent of the petitioner in identical matters suggests his involvement in such type of crime.

6. Regard being had to the submissions made on behalf of the parties and considering the submission advanced on behalf of the petitioner which *prima facie* lacks the ingredient constituting offence under Section 40 of the Bihar



Prohibition and Excise (Amendment) Act, 2022, let the petitioner abovenamed 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-1, Bettiah, West Champaran in connection with Bairiya P.S. Case No. 425 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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