

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3341 of 2025

Arising Out of PS. Case No.-468 Year-2024 Thana- SHAHPUR PATORI District- Samastipur

Dinesh Ray @ Dinesh Prasad Ray Son of Late Parmesri Ray @ Prameshwar
Ray Resident of village- Hetanpur ward no 11, P.S- Shahpur Patori, Dist-
Samastipur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Pramod Kumar Singh, Adv

For the Opposite Party/s : Mr. Nagendra Prasad, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 15-02-2025 Heard the learned Advocate for the petitioner and the
learned APP for the State.

2. The petitioner apprehends his arrest in connection
with Shahpur Patori P.S. Case No. 468 of 2024, registered for
the offences punishable under Section 30(a) of the Bihar
Prohibition and Excise (Amendment Act), 2022.

3. It is alleged that the police on a tip-off trade of
illicit wine conducted raid in the house of the petitioner; on
noticing the police party two persons succeeded in fleeing away.
The villagers disclosed the name of two persons. On search,
total 40 litres country made liquor tied in the two white
polythene bags were recovered from the farm.

4. Learned Advocate for the petitioner drawing the
attention of this Court to the seizure list has contended that the
admittedly alleged recovery has been made from a pumpkin



field situated at the distance of 20 yards of the house of the petitioner. There is no recovery from the conscious and constructive possession of the petitioner, moreover, the alleged recovered illicit wine is made from an open place which is easily accessible to anyone. The petitioner has fair and clean antecedent which clearly speaks that he had never been involved in such crime. The name of the petitioner and his son has been disclosed by the villagers. Referring to the aforesaid fact it is lastly contended that in such circumstances the bar provided under Section 76(2) of the Bihar Prohibition and Excise Act does not attract.

5. On the other hand, learned counsel for the State has vehemently opposed the pre-arrest bail application.

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 open field coupled with the fair antecedent of the petitioner and the lack of material which attract the bar provided under Section 76(2) of the Bihar Prohibition and Excise Act; as also in view of the mandate of the full Bench of this Court in the case of **Ram Vinay Yadav vs. State of Bihar reported in 2019 (2) PLJR 1089**, 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 Special Judge (Excise)-02, Samastipur, in connection with Shahpur Patori P.S. Case No. 468 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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