

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8791 of 2025

Arising Out of PS. Case No.-205 Year-2024 Thana- JHANJHARPUR District- Madhubani

Md. Mumtaz @ Mohammad Mumtaz Son of Sadik Nut @ Md. Sadik @
Mohammad Saddiq R/o Vill- Isalampur, P.S.- Jhanjharpur, District-
Madhubani

... .. Petitioner

Versus

The State of Bihar Patna

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Sanjay Kumar Jha, Advocate

For the Opposite Party/s : Mr.Awadhesh Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 07-03-2025 Heard learned counsel for the petitioner and learned APP
for the State.

2. The accused-petitioner, named in the F.I.R., is apprehending his arrest in connection with Jhanjharpur P.S. Case No. 205 of 2024 registered for the offences punishable under Sections 274, 275, 3(5) of the Bhartiya Nyay Sanhita (in short the ‘B.N.S.’) and section 30(a) of the Bihar Prohibition and Excise Act.

3. The allegation against the petitioner is to have in possession of 123.750 litres of illicit liquor and engaged in illegal trading/manufacturing of illicit liquor.

4. Learned counsel appearing on behalf of the petitioner submitted that recovery, as per seizure list, appears to be made from a ditch situated at the eastern side of the house of Md. Rashid, who is not an accused in this case. It is submitted that



merely on the suspicion, name of the petitioner has been disclosed by local chowkidar. It is submitted that one of the reason for implication of this petitioner with the present case is suspicion arising from his criminal antecedent as he found involved in five (5) more criminal cases of similar nature, where he is on bail. It is pointed out that merely on suspicion, in most of the cases, name of the petitioner has been transpired as of present case. It is submitted by learned counsel that recovery of illicit liquor appears to be made from an open place accessible by general public and not from physical possession of this petitioner.

5. In this context, regarding criminal antecedents, it is submitted that merely on the sole ground of criminal antecedents, the bail of petitioner should not be denied. In support of his submission, learned counsel relied upon legal report of Hon'ble Supreme Court as available through **Prabhakar Tewari Vs. State of U.P. and Another** reported in **(2020) 11 SCC 648**.

6. Learned A.P.P. for the State has opposed the prayer for anticipatory bail of the petitioner.

7. In view of the aforesaid factual submissions and by taking note of the fact as illicit liquor *prima-facie* appears not to be made from physical possession of this petitioner, rather from an open place accessible by general public, accordingly, above-named



petitioner, in the event of his arrest/surrender within a period of four weeks from today, is directed to be enlarged on bail on furnishing of bail bond of Rs.10,000/- (ten thousand only) with two sureties of the like amount each to the satisfaction of learned Special Judge, Excise Act, Jhanjharpur, Madhubani/concerned court in connection with Jhanjharpur P.S. Case No. 205 of 2024, subject to the conditions as laid down under Section 438(2) of the Cr.P.C/Section 482(2) of the Bhartiya Nagarik Suraksha Sanhita (in short “B.N.S.S.”).

(Chandra Shekhar Jha, J)

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