

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11886 of 2025**

Arising Out of PS. Case No.-448 Year-2024 Thana- TURKAULIYA District- East
Champanan

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1. Gobardhan Mahato S/O Late Rajan Mahato @ Rajan Mahto Resident of Village- Madhopur Madhumalat Kayastha Toli, P.S- Turkauliya, District- East Champanan.
 2. Achchelal Mahto S/O Gobardhan Mahato Resident of Village- Madhopur Madhumalat Kayastha Toli, P.S- Turkauliya, District- East Champanan.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Abhishek Kumar, Adv
For the Opposite Party/s : Mr. Abhay Kumar Roy, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 02-04-2025 Heard learned counsel appearing on behalf of the

petitioner and learned Additional Public Prosecutor appearing

on behalf of the State.

2. At the outset, it is submitted by learned counsel

for the petitioner that petitioner no. 1 namely Gobardhan

Mahato was arrested during the pendency of present petition

and, therefore, his prayer of anticipatory bail now becomes

infructuous.

3. In view of submission prayer of anticipatory bail



of petitioner no. 1 namely Gobardhan Mahato stands dismissed being infructuous.

4. Now this petition survives only against petitioner no. 2, namely Achchelal Mahato.

5. The petitioner no. 2 is named in the F.I.R. and apprehended his arrest in connection with Turkauliya P.S. Case No. 448 of 2024 registered for the offences punishable under Sections 30 (a), 36 and 41(1) of the Bihar Prohibition and Excise Act.

6. The allegation against the petitioner no. 2 is to be engage in illegal trading/manufacturing of illicit liquor, where, there is recovery of 122 litres of IMFL/country made liquor.

7. Mrs. Rashmi Jha, learned counsel appearing on behalf of the petitioner no. 2 submitted that recovery of alleged illicit liquor was made from bathan/cowshed of petitioner no. 1, who is already arrested, whereas petitioner no. 2 was implicated with the present case only being son of petitioner no. 1. It is submitted that bathan/cowshed is easily accessible by general public. It is further submitted that even



seizure list is not supported by independent witnesses rather by Bihar Home Guard personnels. It is pointed out that mandatory compliance of Section 103(4) of the BNSS not appears followed before searching bathan/cowshed, being a premises, which makes entire search and seizure doubtful on its face. It is submitted that petitioner is a man of clean antecedent.

8. Learned APP appearing on behalf of the State, opposes the prayer for anticipatory bail.

9. In view of aforesaid facts and circumstances and by taking note of the fact as recovery of illicit liquor prima-facie appears doubtful from the conscious physical possession of petitioner no. 2, accordingly the petitioner no. 2, above named, in the event of his arrest or surrender before the learned Trial Court within a period of four weeks, is directed to be released on bail, furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned Special Judge, Excise Court No. 1, Motihari, East Champaran/concerned Trial Court where the case is pending



in connection with Turkauliya P.S. Case No. 448 of 2024
subject to the conditions as laid down under Section 438(2) of
the Cr.P.C./Section 482(2) of the BNSS.

(Chandra Shekhar Jha, J.)

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