

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23620 of 2025

Arising Out of PS. Case No.-5 Year-2025 Thana- RAHUI District- Nalanda

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Munna Sao @ Munna Kumar S/o Prabhu Sao R/o Village- Swargwali, Rahui
Bazar, P.S.- Rahui, District- Nalanda

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjeev Ranjan, Advocate

For the Opposite Party/s : Mrs. Indu Kumari Srivastava, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR SINHA
ORAL ORDER

2 02-05-2025 Heard learned counsel for the petitioner and learned
A.P.P. for the State .

2. Petitioner apprehends his arrest in a case registered
for the offence punishable under Section 30(a) of the Bihar
Prohibition and Excise (Amendment) Act, 2022.

3. The case of the prosecution in short is that the
informant who happens to be a Sub Inspector of Police at Rahui
Police Station has lodged a written report with Officer In-charge
of Rahui Police Station alleging therein that on 20.01.2025 at
about 6.30 P.M., the informant received a secret information that
the owner of Sahil Vastralaya, namely Md. Munna has
concealed Indian made foreign liquor in his godown used for
keeping clothes and his wife under the guise of cloth shop was
engaged in selling Indian made foreign liquor. It is further



alleged that the informant along with posse of policemen went to the shop at about 6.30 P.M. where they noticed that on seeing the police force, a male and a female started running from the lane and the police force made an attempt to apprehend them but the male managed to escape away and the female was apprehended with the help of police force. The apprehended female disclosed her name as Mamta Devi and further disclosed the name of the person who had fled away as Munna Sao. The police force thereafter searched the house and godown where Sahil Vastralaya was situated and from the ground floor of the house, a total quantity of 84.375 liters of Indian made foreign liquor were recovered which was seized and a videography was also made of such recovery. It is next alleged that the storage of liquor is prohibited in the State of Bihar and, therefore, constitutes an offence under Section 30(a) of the Bihar Prohibition and Excise (Amendment) Act, 2018.

4. Learned counsel for the petitioner submits that petitioner is innocent and has committed no offence and has been falsely implicated by the police by showing alleged recovery from his house at the instance of his enemy. It is next submitted that no independent witness was joined in search and seizure of the alleged recovery and only police officers were



made witness to the search and seizure and, therefore, the seizure has been conducted in complete violation of Section 103(4) of BNSS. It is further submitted that petitioner was not present at the place when the alleged seizure was effected and the house being a joint family property and accessible to all the family members, it cannot be presumed that the recovery has been affected from the conscious possession of the petitioner.

5. Learned A.P.P. for the State opposes the prayer of anticipatory bail.

6. On a careful perusal of the Search & Seizure Memo which has been enclosed at page-17 of the application, it is manifest that the same was not done in the presence of two independent witnesses which is a violation of Section 103(4) of BNSS which puts a serious question mark on the legality and validity of the Search & Seizure Memo.

7. Considering the aforesaid facts and circumstances of the case, the petitioner in the event of his arrest or surrender within four weeks from today, let the petitioner, as named above, be enlarged on bail on furnishing bail bond of Rs.10,000/-(Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Additional District & Sessions Judge-IV-cum-Special Judge, Excise-II, Nalanda in



connection with Rahui P.S. Case No. 5 of 2025, subject to the conditions laid down under section 482(2) of the Bharatiya Nagarik Suraksha Sanhita, 2023 .

(Alok Kumar Sinha, J)

Gaurav Sinha/-

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