

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.27612 of 2025

Arising Out of PS. Case No.-25 Year-2025 Thana- KHUTAUNA District- Madhubani

Devendra Mukhiya S/o Yaduveer Mukhiya @ Jodbir Mukhiya, R/o Village-
Hanuman Nagar, PS- Khutauna, District- Madhubani

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Jitendra Kumar Bharti, Adv.

For the Opposite Party/s : Mr. Bishweshwar Ram, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 14-05-2025 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner apprehends his arrest in connection with Khutauna P.S. Case No. 25 of 2025 registered for the offences punishable under Sections 274, 275 ad 3(5) of the BNS and Section 30(a) of the Bihar Prohibition and Excise (Amendment) Act, 2022.

3. The allegation against the petitioner is of involved in trafficking of illicit wine; the police conducted raid. However, on noticing the police party, one of the persons succeeded in fleeing away and another was apprehended by the police. The apprehended person disclosed the name of the petitioner, who allegedly succeeded in fleeing away. In course of search, total 36 lts. of country made liquor was recovered.



4. Learned counsel for the petitioner contended that save and except the disclosure made by the apprehended person, there is no material suggesting complicity of the petitioner in the crime. Taking this Court through the seizure list, it is further contended that the alleged recovery has been made from an open place in a bush nearby a canal and, as such, in any view of the matter, the petitioner cannot be held accountable for the same. Moreover, the place from where the recovery has been made, is easily accessible to all. The name of the petitioner has been falsely implicated in this case on account of one criminal antecedent of identical nature. Learned counsel for the petitioner also pointed out the infirmities in search and seizure; the witnesses are none else but the police personnel.

5. On the other hand, learned counsel for the State opposed the bail application and submitted that the anticipatory bail application of the petitioner is not maintainable in terms of Section 76(2) of the Bihar Prohibition and Excise Act (for short 'the Act, 2016').

6. Regard being had to the submissions made on behalf of the parties and considering the materials available on record, especially the fact that besides disclosure of the apprehended person, there is no material; moreover, neither any



incriminating material has been recovered from the constructive possession of the petitioner nor there is further material, which attracts the provision under Section 76(2) of the Act, 2016, let the above named petitioner, be released on bail, in the event of his arrest or surrender before the learned Court below within a period of four weeks from today, on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, Excise Act, Jhanjharpur, Madhubani in connection with Khutauna P.S. Case No. 25 of 2025, subject to the condition as laid down under Section 482(2) of the BNSS, with further condition that one of the bailors shall be the own/close family members of the petitioner.

(Harish Kumar, J)

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