

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30977 of 2025

Arising Out of PS. Case No.-22 Year-2025 Thana- PHENHARA District- East Champaran

Jadu Sahani @ Yadu Sahani, S/o Late Shree Sahani @ Siri Sahani, Resident
of village -Madhubani, P.S.- Phenhara, District- East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ajay Kumar Singh, Advocate

For the Opposite Party/s : Ms. Pushpa Sinha, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 20-05-2025 Heard the parties.

2. The petitioner is apprehending his arrest in connection with Phenhara P.S. Case No. 22 of 2025 registered for the offence punishable under Section 30 (a) of the Bihar Prohibition and Excise (Amendment) Act, 2018.

3. The allegation against the petitioner is of involved in trafficking of illicit liquor, the police conducted raid and recovered 50 litres of country made liquor from the house of the petitioner. However, noticing the police party, the petitioner along with other co-accused persons succeeded in fleeing away.

4. Learned Advocate for the petitioner taking this Court through the F.I.R. and the seizure list contended that it has not been disclosed that from which place the entire recovery has been made. Had the recovery been made from the house of the



petitioner, the search and seizure list would have certainly contain the signature of any of the family members of the petitioner, on whose presence the recovery has been made, however, the witnesses are non-else, but the police personnel and the copy of the same has not been handed over to any of the family members of the petitioner, this smacks malafide. There are various other infirmities in the search and seizure, coupled with non-compliance of Sections 103 and 105 of the Bharatiya Nagarik Suraksha Sanhita, 2023. Even for the sake of argument, the allegation levelled in the F.I.R. is accepted to be true, for a moment, the house, in question, is a joint family house where several persons reside and thus the petitioner cannot be held accountable for the same. In fact, on account of one criminal antecedent, in identical nature, as has been disclosed in para. 3 of the petition, the name of the petitioner has been implicated in this case. The petitioner undertakes that he will fully cooperate in the investigation or in the proceeding of the court.

5. On the other hand, learned APP for the State opposes the bail application and submits that the recovery of illicit liquor from the house of the petitioner clearly suggests his involvement and moreover Section 76(2) of the of the Bihar Prohibition and Excise Act, 2016 bars the anticipatory bail.



6. Regard being had to the submissions made on behalf of the parties and taking note of the fact that the alleged recovery has been made from a house, which is a joint family property, coupled with the infirmities in the search and the seizure; as also the absence of the substantive materials attracting the rigors of the provisions provided under Section 76(2) of the of the Bihar Prohibition and Excise Act, 2016, let the petitioner, named above, in the event of his arrest or surrender before the court below within four weeks from the date of receipt/production of a copy of this order, be released on bail on furnishing bail bonds of Rs.20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Judge, Excise Court No.3-III, East Champaran at Motihari in connection with Phenhara P.S. Case No. 22 of 2025, subject to the condition as laid down under Section 482 (2) of the Bharatiya Nagarik Suraksha Sanhita, 2023 with the further condition that one of the bailors shall be the own/close relative of the petitioner.

(Harish Kumar, J)

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