

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31804 of 2025

Arising Out of PS. Case No.-97 Year-2022 Thana- MATIHANI District- Begusarai

Niroj Yadav @ Nirak Kr. Yadav @ Niraj Kumar Yadav S/o Bilaity Yadav @
Viliyati Yadav @ Bilayti Yadav Resident of Vill.- Saidpur, P.S.- Matihani,
Distt.- Begusarai

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Arvind Kumar, Adv.
Mr. Vinod Kumar Seth, Adv.
For the Opposite Party/s : Mr. Raj Ballabh Singh, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 22-05-2025 Heard Mr. Arvind Kumar, learned Advocate for the
petitioner and the learned APP for the State.

2. The petitioner apprehends his arrest in connection with Matihani P.S. Case No. 97 of 2022, registered for the offences punishable under Sections 30(a), 30(d) of the Bihar Prohibition and Excise (Amendment) Act, 2018.

3. The allegation against the petitioner is of involved in manufacturing and trade of illicit liquor. The police on a secret information raided the house of the petitioner and seized manufacturing utensils and 15 litres of country made liquor from the courtyard of the petitioner.

4. Learned Advocate for the petitioner submitted that the alleged courtyard is situated at some distance of the house of



the petitioner, which is open from all corners, since the petitioner has been residing outside and he is not aware as to whether his courtyard has ever been used for any illicit purpose. In fact, only on account of his two criminal antecedent; one relates to Excise Act, the name of the petitioner has been implicated in this case without there being any material substance. Taking this Court though the seizure list, it is further contended that had the recovery been made from the house/courtyard of the petitioner, there would have been signature of any of his family members, much less the copy of the seizure list should have been handed over to any of the family members, but the same has not been done, as such, the entire search and seizure smacks *malafide*. There has been no compliance of the mandatory provisions while conducting search and seizure.

5. On the other hand, learned Advocate for the State vehemently opposed the bail application and submitted that apart from bar provided under Section 76(2) of the Bihar Prohibition and Excise Act, 2016, the manufacturing unit has been unearthed from the courtyard.

6. Considering the materials available on record, especially the seizure list and the submissions advanced by the



learned Advocate for the petitioner that the courtyard is situated at the distant place, which is an open place from all corners, coupled with the infirmities in search and seizure and lack of substantive material attracting the rigors provided under Section 76(2) of the Bihar Prohibition and Excise Act, 2016, let the petitioner abovenamed be released on bail, in the event of his arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, upon furnishing bail bonds of Rs.20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of the learned Exclusive Special Excise Judge-I, Begusarai in connection with Matihani P.S. Case No. 97 of 2022, subject to the conditions laid down in Section 482(2) of the Bharatiya Nagrik Suraksha Sanhita, 2023, with the further condition that one of the bailors shall be the own/close family members of the petitioner.

(Harish Kumar, J)

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