

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.50718 of 2025

Arising Out of PS. Case No.-241 Year-2020 Thana- GOVERNMENT OFFICIAL COMP.
District- East Champaran

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Kameshwar Rai S/o Late Jiya Lal Rai R/o Village- Mahaddipur, P.S.-
Chiraiya, District- East Champaran, Motihari

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Anshu Dhar Sharma, Adv.

For the Opposite Party/s : Ms. Indu Kumari Srivastava, APP

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

2 11-08-2025 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner apprehends his arrest in connection with Excise P.S. Case No.241 of 2020 (Tr. No. 2450/2022) registered for the offence punishable under Section 30(a) of the Bihar Prohibition and Excise (Amendment) Act, 2018.

3. The police, on a tip-off, manufacturing of illicit wine, conducted raid near a pond situated beside the Middle School at Sahu Tola. Noticing the police party, the accused persons succeeded in fleeing away; however, the police destroyed 3000 lts. of fermented jaggery mixture and recovered 15 lts. of illicit country made liquor.

4. Learned counsel for the petitioner taking this Court



through the FIR has contended that neither the petitioner was seen at the place of occurrence nor the place from where recovery was made is belonged to him. It is the admitted position that the alleged recovery was made from an open place, which is easily accessible to all and the petitioner cannot be made responsible for that. Only on account of two past criminal antecedent of identical nature, the name of the petitioner has been incriminated in this case without there being any other cogent material. It is further contended that since at no point of time any summons or requisition have been served upon the petitioner; therefore, he was not aware with regard to the present case and, for the first time, when the police raided the house of the petitioner, he rushed to the Court for grant of anticipatory bail.

5. On the other hand, learned counsel for the State opposed the bail application and submitted that the petitioner has been evading his arrest for the last four years, besides there is a rigor provided under Section 76(2) of the Bihar Prohibition & Excise Act, 2016 (for short 'the Act, 2016'), which bars the anticipatory bail application.

6. Regard being had to the submissions made on behalf of the parties and considering the materials available on



record, which clearly suggests that the alleged recovery has been made from an open place nearby a pond, which is an open place and moreover from the FIR, it appears that the entire case is revolving around suspicion of complicity of the petitioner in manufacturing of wine based upon his past criminal antecedent; apart from lack of material, which attracts the rigors provided 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 Exclusive Special Judge Excise, Court-2, East Champaran, Motihari in connection with Excise P.S. Case No.241 of 2020, 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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