

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.66796 of 2025**  
**In**  
**CRIMINAL MISCELLANEOUS No.28237 of 2025**

Arising Out of PS. Case No.-6 Year-2025 Thana- Jai Bajrang District- East Champaran

Munna Kumar @ Munna Kumar Yadav S/O Ram Sharan Ray, Resident of  
village - Rajuwa Bakhari (Rajua Bakhri), P.S.- Mehshi, District- East  
Champaran. ... .. Petitioner/s

Versus

The State of Bihar ... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr.Ajay Kumar Singh  
For the Opposite Party/s : Mr.Anand Kishore Choudhary

**CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH**  
**ORAL JUDGMENT**

**Date : 26-09-2025**

Heard learned counsel appearing on behalf of the  
petitioner and the learned APP for the State.

2. The present modification application has been filed  
under Section 528 of BNSS for interfering with the order dated  
30.05.2025 passed in Jai Bajrang P.S.Case No.06 of 2025 by the  
learned Exclusive Special Excise Judge-I, Motihari (East  
Champaran).

3. The case of the petitioner is that the bail application  
of the petitioner was allowed, vide order dated 07.05.2025  
passed in Cr. Misc. No.28237 of 2025 considering the fact that  
20 ltrs. of illicit country-made liquor was recovered from a  
motorcycle bearing Registration No.BR06Y-3155, which was  
parked on the road near the well of one Bhagwan Dubey.

4. Learned district court has assumed that the  
petitioner is required to face trial in spite of the fact that



following directions were given in **Paragraph no.6** of order dated **07.05.2025**, which is reproduced *inter alia* as follows : -

***“6. Considering the nature of allegation made against the petitioner and the fact that altogether 20 litres of illicit country made liquor was recovered from a motorcycle, bearing Registration No.BR06Y-3155, learned District Court is directed to verify from the District Transport Officer concerned in respect of the seized motorcycles, as to whether, the same is registered in the name of the petitioner?”***

5. The manner, in which the learned Exclusive Special Excise Judge-I, Motihari (East Champaran) has proceeded, has certainly affected the fundamental right of the petitioner as enshrined under Article 21 of the Constitution of India. The order is required to be deprecated and the learned Exclusive Special Excise Judge-I must educate himself that when a citizen is faced with malicious prosecution, the basic principle of law is to grant bail and not to deny. In this regard, the Apex Court in the case of **Satender Kumar Antil vs. CBI & Anr.** reported in **(2024) INSC 134** has affirmed that the bail is a rule, and jail is exception. Once a High Court allows a bail application, the district court is bound by the directions/conditions contained in the order passed under Section 438 of Cr.P.C. The District Court can not refuse to accept the bond for an order where the bail has already been



granted by the High Court.

6. Accordingly, the order dated 30.05.2025 passed in Jai Bajrang P.S.Case No.06 of 2025 being without jurisdiction is set aside and quashed.

7. This Court being the constitutional court can not abdicate itself from protecting the fundamental right guaranteed to a citizen under Article 21 of the Constitution of India. As per the FIR, no recovery of liquor has been made from the possession of the petitioner, who has no criminal antecedent and he is facing prosecution in absence of any evidence, which will only lead to abuse of process of law. Accordingly, entire criminal proceeding relating to Jai Bajrang P.S.Case No.06 of 2025 is also set aside and quashed.

8. The present modification application is disposed of.

**(Purnendu Singh, J)**

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