

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.75935 of 2024

Arising Out of PS. Case No.-559 Year-2024 Thana- Excise P.S. District- Darbhanga

ANISH KUMAR MANDAL S/O- LATE LALIT KUMAR MANDAL @
LATE LALIT MANDAL Resident of Village- Pandasaray Police Station -
Leheriasarai District Darbhanga

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Nilendu Kumar Choudhary, Adv.
For the Opposite Party/s : Mr. Abhay Kumar, APP.

CORAM: HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA
ORAL ORDER

4 11-04-2025 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. The petitioner apprehends his arrest in a case registered for the offences punishable under Section 30(a) of the Bihar Prohibition and Excise (Amendment) Act, 2022.

3. The recovery of total 31.860 litres of foreign liquor has been shown from bathroom of the house of the petitioner and also from a nearby shed.

4. Learned counsel for the petitioner submits that no recovery was made from physical and conscious possession of the petitioner. Though, the recovery has been shown from the bathroom of the petitioner's house, but the said house is a joint family property and hence, no liability can be fixed upon the



petitioner in the said offence. The shed is not a part of the house of the petitioner. Learned counsel for the petitioner further submits that the process of search and seizure also amounts to violation of the mandatory provisions as there is no independent witness to the said seizure and no signature has even been taken from any family member of the petitioner staying in the house.

5. Learned APP for the State has opposed the prayer for bail.

6. In view of the order dated 12.11.2024, a report has been received from the office of S.P. Darbhanga stating therein that Section 105 of the BNSS, 2023 has been complied with.

7. Considering the fact that there is no recovery from physical and conscious possession of the petitioner, there is no independent witness to the said seizure/search and also the fact the petitioner has one criminal antecedent and in the same, he is on bail, I am inclined to grant the privilege of anticipatory bail to the petitioner. Let the petitioner, above named, in the event of his arrest or surrender before the Court below within four weeks, be released on bail 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-I (Excise Act),



Darbhangha in connection with Excise Sadar P.S. Case No. 559 of 2024, subject to the condition as laid down under Section 438 (2) of the Cr.P.C/ 482 (2) of the BNSS, 2023.

8. The criminal antecedent of the petitioner as mentioned in para 3 of the bail application shall also be verified at the time of furnishing bail bonds.

(Soni Shrivastava, J)

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