

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.85727 of 2024

Arising Out of PS. Case No.-189 Year-2023 Thana- DEV District- Aurangabad

Upendra Yadav S/O Banshi Yadav R/O Vill.- Pakardih, Mudgada, Nima
Anjan, P.S. Madanpur, Dist- Aurangabad(Bihar)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Aman Vishal, Adv.

For the Opposite Party/s : Mr. Kanhiya Kishor, APP.

CORAM: HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA
ORAL ORDER

3 05-05-2025 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 Act, 2016.

3. The recovery of total 144 litres of country made *mahua* liquor has been shown from a tempo bearing registration no. BR26PA7114 which was kept in a sack.

4. Learned counsel for the petitioner submits that the petitioner's name has surfaced in the present case on account of the fact that he is the owner of the seized tempo. It is further submitted that no recovery was made from physical and conscious possession of the petitioner and as a matter of fact, on the date of occurrence, the tempo had been taken by a co-villagers of the petitioner for taking his ailing wife to the doctor and hence,



he has no knowledge that the tempo had been put to some illegal use. The further submission is that the process of search and seizure also amounts to violation of the mandatory provisions as the seizure list witnesses are the members of the raiding team.

5. Learned APP for the State opposes the prayer for anticipatory bail.

6. Considering the facts 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 no criminal antecedent, 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, Excise Court No.1, Aurangabad (Bihar) in connection with Deo P.S. Case No. 189 of 2023, subject to the condition as laid down under Section 438 (2) of the Cr.P.C/ 482 (2) of the BNSS, 2023.

(Soni Shrivastava, J)

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