

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.84169 of 2025

Arising Out of PS. Case No.-128 Year-2025 Thana- SARE District- Nalanda

Shivam Kumar S/o Rakesh Kumar R/o vill - Sare, P.S.- Sare, Distt.- Nalanda

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Ms. Suryakant Kumar, Advocate

For the Opposite Party/s : Mr. Sucheta Yadav, APP

CORAM: HONOURABLE MR. JUSTICE AJIT KUMAR

ORAL ORDER

2 17-12-2025 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Sare P.S. Case No.128 of 2025, F.I.R dated 10.09.2025 registered for the offences punishable under Section 30(a) of the Bihar Prohibition and Excise Amendment Act, 2018.

3. As per the prosecution case, on 10.09.2025 at about 9:20 p.m., the informant received secret information that the petitioner was unloading a consignment of English liquor for illegal sale in a paddy field near the poultry farm of Chittu Singh. After informing senior officers, the informant reached the spot around 9:30 p.m. and saw two persons arranging cartons, who fled on a motorcycle upon noticing the police. On inspection, the police recovered 30 cartons of liquor from the paddy field. Villagers present disclosed the name of one person



as Shivam Kumar (the petitioner), but could not identify the other accused. As no villager agreed to be a witness, two police personnel were made independent witnesses. Upon search, a total of 534 bottles of McDowell's No. 1 liquor, amounting to 265.875 litres, were recovered.

4. Learned counsel for the petitioner submits that the place of recovery is from a paddy field, adjacent to poultry farm of Chittu Singh, which is an open space and is accessible to all. The petitioner is neither connected with the seized articles nor was present at the place of occurrence. The name of the petitioner has transpired on the basis of secret information given by the local villagers while there is nothing incriminating to connect this petitioner with the seized articles or in the commission of offence. There is no independent witness to the seizure list, thereby violating the mandatory provisions of search and seizure, under Section 103 of the B.N.S.S. It has next been submitted that the petitioner has clean antecedent.

5. Learned APP for the State opposes the prayer for anticipatory bail application and submits that that the activities of this petitioner was known to the villagers, who have found his complicity in the commission of said offence and on the basis of such information, the name of the petitioner was given



to the Police.

6. Regard being had to the submission made by the parties, taking into consideration the fact that illicit liquor has not been recovered from the constructive possession and / or premises belonging to the petitioner and that the seized materials was recovered from an open space where access of general public cannot be ruled out and the petitioner has clean antecedent, accordingly, this Court is inclined to grant anticipatory bail to the petitioner.

7. Let the petitioner, above named, be released on anticipatory bail in the event of arrest or surrender before the court below within a period of four weeks from today on furnishing bail bond of Rs. 10,000/- (rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, Excise-II, Biharshariff, Nalanda, in connection with Sare P.S. Case No.128 of 2025, subject to the condition as laid down under Section 482(2) of the B.N.S.S., 2023.

(Ajit Kumar, J)

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