

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.89304 of 2024

Arising Out of PS. Case No.-217 Year-2024 Thana- PANDAUL District- Madhubani

Dilip Saday, S/O Prakash Saday @ Ram Prakash Saday, R/O- Teliya Mushari,
P.S- Pandaul, District - Madhubani

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Jha, Adv.

For the Opposite Party/s : Mr. Syed Mojibur Rahman, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 08-01-2025 Heard the learned Advocate for the petitioner and the
learned APP for the State.

2. The petitioner apprehends his arrest in connection with Pandaul P.S. Case No. 217 of 2024, registered for the offences punishable under Sections 30(a), 41(1) of the Bihar Prohibition and Excise Act,

3. The allegation against the petitioner is of indulge in manufacturing the illicit wine. The police conducted raid and recovered 95 litres of country made liquor behind the house of the petitioner. The police also recovered manufacturing utensils from the spot.

4. Learned counsel appearing on behalf of the petitioner contended that from the narrations made in the FIR clearly suggests that name of the petitioner has been disclosed

by Mahal Chowkidar. Moreover, the alleged recovery has been made behind the house of the petitioner from an open place which does not belong to the petitioner. Only on account of one criminal antecedent, the name of the petitioner has been implicated in this case on mere suspicion. Barring suspicion, there is no material suggesting the complicity of the petitioner in the crime. There is non-compliance of Section 103 of the BNSS, 2023 and the witnesses are none else but the police personnel which also shows *mala fide* on the part of the prosecution.

5. On the other hand, learned counsel for the State opposed the pre-arrest bail application submitted that a manufacturing unit of illicit wine has been unearthed by the police which was operated by the petitioner.

6. Regard being had to the submissions made on behalf of the parties and considering the fact that the alleged recovery has been made from an open place behind the house of the petitioner and there is no other material suggesting the complicity of the petitioner in the crime, coupled with the infirmities in the search and seizure which *prima facie* do not attract Section 76(2) of the Bihar Prohibition and Excise Act, 2016, let the petitioner above named be released on bail, in the event of his arrest or surrender before the court below within a period of

four weeks from the date of receipt/production of a copy of this order, upon furnishing bail bonds of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned Additional District and Sessions Judge-II-cum-Special Judge Excise Act, Madhubani in connection with Pandaul P.S. Case No. 217 of 2024, subject to the conditions laid down in Section 438(2) Cr.P.C. with the further condition that one of the bailors shall be the own/close family members of the petitioner.

(Harish Kumar, J.)

Jyoti Kumari/-

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