

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.89313 of 2024

Arising Out of PS. Case No.-154 Year-2024 Thana- MUSRIGHRARI District- Samastipur

Umesh Kumar @ Nanki, Son of Raju Singh @ Rajo Singh, Resident of
village- Fatehpur, PS- Musrigharari, District- Samastipur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Anish Kumar,

For the Opposite Party/s : Mr. Yogendra Kumar Singh, 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 Musrigharari P.S. Case No. 154 of 2024, registered for the
offences punishable under Sections 319(2), 318(2) of BNS and
Section 30(a), 33, 36, 41 of Bihar Prohibition and Excise Act.

3. The allegation against the petitioner is of indulge in
trade of illicit wine. The police conducted raid in the house of
co-accused Pankaj Paswan and recovered 390 litres illicit wine
and 210 litres of spirit like liquid substance and some bottles
and rappers.

4. Learned counsel appearing on behalf of the
petitioner contended that from the FIR it is evident that the
alleged recovery has been made from the house of the co-

accused Pankaj Paswan. The name of the petitioner has sprung up only on disclosure of co-accused Pankaj Paswan. Save and except disclosure, there is no material against the petitioner showing the complicity of the petitioner in the crime. Moreover, the disclosure before the police is taken on the coercion of the police and, as such, not admissible in law is the submission of the learned Advocate for the petitioner. It is further contended that in fact, the petitioner bears four criminal antecedents of identical nature and on account of this fact in all the identical nature of crime, the name of the petitioner is being implicated which also shows *mala fide* on the part of the police personnel. The petitioner undertakes before this Court that he will fully cooperate in the investigation and the proceeding of the Court.

5. On the other hand, learned counsel for the State opposed the pre-arrest bail application and submitted that a huge quantity of illicit wine has been recovered. Moreover, 76(2) of the Bihar Prohibition and Excise Act clearly bars the anticipatory bail in the facts of the present case.

6. Regard being had to the submissions made on behalf of the parties and considering the fact that nothing has been recovered from the conscious and constructive possession of the petitioner, save and except, the disclosure made by

apprehended person there is no material and, as such, the bar provided under Section 76(2) of the Bihar Prohibition and Excise Act is not applicable, 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 Exclusive Special Excise Court No.-I, Samastipur in connection with Musarigharari P.S. Case No. 154 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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