

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.89199 of 2024

Arising Out of PS. Case No.-401 Year-2024 Thana- Excise P.S. District- Begusarai

Sonu Kumar @ Kunal Gautam, Son of Anil Singh, Resident of Village - Maheshwara, Ward No.- 6, P.S.- Nawkothi, District - Begusarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ranjit Kumar Thakur, Adv.

For the Opposite Party/s : Mr. Indu Kumari Srivastava, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

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

2. The petitioner apprehends his arrest in connection with Begusarai Excise P.S. Case No. 401 of 2024, registered for the offences punishable under Sections 30(a) and 32(3) of the Bihar Prohibition and Excise (Amendment) Act, 2022.

3. Allegation against the petitioner is of involved in trade of illicit wine, the police on a secret information raided the place of occurrence and intercepted one ACE GOLD Magic Container. It is further alleged that when the police party reached at the place of occurrence, they heard that the persons who were assembled there were taking the name of the petitioner and others and asking them to flee away, whereupon they succeeded in fleeing away. On search total 351 litres of

Indian made foreign liquor was recovered from the Magic container.

4. Learned counsel appearing on behalf of the petitioner drawing the attention of this Court to the FIR contended that save and except suspicion, there is no material suggesting the complicity of the petitioner in the crime. The petitioner is neither the owner of the ACE GOLD Magic Container nor has any connection with the recovered illicit wine. In fact, on account of the previous criminal antecedent, as has been mentioned in Paragraph No. 3, the name of the petitioner has been implicated in this case on suspicion. Save and except suspicion, there is no material. There are other infirmities in the search and seizure and the witnesses are none else but the police personnel. The petitioner undertakes that he will fully cooperate in the Court proceeding.

5. On the other hand, learned counsel for the State opposes the pre-arrest bail application submits that the petitioner bears three criminal antecedent apart from the bar provided under Section 76(2) of the Excise Act.

6. Regard being had to the submissions made on behalf of the parties and considering the fact that save and except suspicion there is no material suggesting the complicity

of the petitioner in the crime. There is no recovery from the conscious and constructive possession of the petitioner and, as such, the bar provided under Section 76(2) of the Excise Act is not applicable, coupled with the infirmities in the search and seizure, 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.20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of the learned Exclusive Special Judge, Excise-II, Begusarai in connection with Begusarai Excise P.S. Case No. 401 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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