

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.89221 of 2024

Arising Out of PS. Case No.-425 Year-2024 Thana- BAIRIYA District- West Champaran

Surendra Kumar @ Surendra Mahto, S/o Late Kashi Mahto, R/o vill - Malkauli, P.S.- Bairiya, Distt.- West Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Raki Alam, Adv.

For the Opposite Party/s : Mr. Narsingh Tanti, 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 Bairiya P.S. Case No. 425 of 2024, registered for the offences punishable under Section 40 of the Bihar Prohibition and Excise Act.

3. On the basis of a viral video, four persons, including the petitioner was identified, who was holding a bag in his hand. Nearby, the petitioner accused Dhamu Mahto was also standing, keeping a beer can (liquor) in his hand. It is further alleged that co-accused Dhamu Mahto is a member of the syndicate, involved in trade of illicit wine; based upon which the FIR has been instituted.

4. Learned counsel appearing on behalf of the



petitioner contended that the entire prosecution case is revolving around viral video. Even as per the viral video, the allegation against the petitioner is that he was holding a bag in his hand. It has not been disclosed as to what was kept in the bag; except suspicion there is no material. The petitioner is the Chowkidar of Bairiya Police Station and in fact, on account of some inimical term with the informant and others the present case has been instituted. Moreover, based upon the viral video neither any recovery has been made from the conscious and constructive possession of the petitioner nor during the course of investigation any other materials have come. The petitioner bears fair antecedent and undertakes that he will fully cooperate in the proceeding of the Court.

5. On the other hand, learned counsel for the State opposes the pre-arrest bail application submits that the petitioner is found involved in trade of illicit wine and being Chowkidar of the police station, he must be proceeded judicially as well as departmentally.

6. Regard being had to the submissions made on behalf of the parties and considering the fact the entire case revolving around viral video; however, basing upon which 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 Bihar Prohibition and Excise Act is not applicable, coupled with the fair antecedent, 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-I, Bettiah West Champaran, in connection with Bairiya P.S. Case No. 425 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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