

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35617 of 2026

Arising Out of PS. Case No.-57 Year-2026 Thana- SASARAM MUFFSIL District- Rohtas

Nitish Paswan Son of Raju Paswan @ Raju Ram, Resident of Village
-Uchitpur PS- Sasaram (Muffasil) District -Rohtas

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ashutosh Tripathy, Adv.

For the Opposite Party/s : Mr. Sanjay Kumar Pandey, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 01-06-2026 Heard learned Advocate for the petitioner and learned
APP for the State through virtual mode.

2. The petitioner apprehends his arrest in connection with Sasaram (Muffasil) P.S. Case No.57 of 2026 registered for the offence punishable under Section 30(a) of the Bihar Prohibition and Excise (Amendment) Act.

3. In course of patrolling duty, on a tip-off regarding the concealment of illicit wine, the police conducted a raid at the house of the petitioner and 7.920 lts. of illicit wine was recovered. However, on noticing the police party, the petitioner succeeded in fleeing away from the back door of the house.

4. The learned Advocate for the petitioner submitted that the entire prosecution case is wholly doubtful inasmuch as the seizure list witnesses are exclusively police personnel and



no independent witness has been associated with the search and seizure. It is further submitted that had the alleged recovery actually been effected from the house of the petitioner, the seizure list would ordinarily have borne the signatures of the family members present at the premises, which clearly smacks *mala fide* on the part of the police personnel. There is complete defiance of Sections 103 and 105 of the BNSS. It is further contended that the arbitrariness of the police action is evident from the fact that while the petitioner has been implicated in the present case on the basis of the alleged recovery from his house, another recovery allegedly effected in the vicinity of the petitioner's house has formed the basis of a separate FIR against the petitioner's brother. The said fact has been categorically stated in para-10 of the bail application. It is thus contended that the very search and seizure being doubtful, the rigors of Section 76(2) of the Bihar Prohibition and Excise Act, 2016 (for short, "the Act, 2016") are not attracted.

5. On the other hand, learned Advocate for the State, vehemently opposed the bail application and submitted that the recovery of illicit wine from the house of the petitioner clearly suggests his complicity.

6. Having considered the submissions advanced by



the learned Advocate for the respective parties and taking note of the deficiency in the search and seizure, besides non-compliance of the mandatory provision of Sections 103 and 105 of the BNSS, and the absence of materials sufficient to attract the rigors provided under Section 76(2) of the Act, 2016 as well as the fair antecedent of the petitioner, let the above named petitioner, be released on bail, in the event of his arrest or surrender before the learned Court below within a period of four weeks from today, on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Judge, Excise-II, Sasaram, Rohtas in connection Sasaram (Muffasil) P.S. Case No.57 of 2026, subject to the condition as laid down under Section 482(2) of the BNSS, with further condition that one of the bailors shall be the own/close family members of the petitioner.

(Harish Kumar, J)

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