IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.74400 of 2026

CNR No. BRHC011067692026

Arising Out of PS. Case No.-510 Year-2026 Thana- VAISHALI District- Vaishali

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Vikash Kumar, S/o Laxman Sahni, R/o Village- Jatkauli Dharampur, P.S.- Vaishali, District- Vaishali

... ... Petitioner/s

Versus

The State of Bihar

... ... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr. Prakash Chandra Jha, Advocate
For the Opposite Party/s : Mr. Shyam Bihari Singh, APP

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

2 28-10-2026 Heard learned Advocate for the petitioner and the learned APP for the State.

2. The petitioner is apprehending his arrest in connection with Vaishali P.S. Case No. 510 of 2026 registered for the offences under Sections 30(a) and 30(c) of the Bihar Prohibition and Excise (Amendment) Act, 2022.

3. Acting on a tip-off regarding manufacturing and storage of illicit liquor, the police conducted raid in a thatched house of the petitioner. However, noticing the police party, one person succeeded in fleeing away, who was later on identified by the *Chowkidar* and the neighbors, as the petitioner. In course of search, two liters of illicit liquor along with other utensils,

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which are said to have been used for the purposes of illicit liquor were recovered.

4. Learned Advocate for the petitioner, referring to the search and seizure memo, has submitted that the entire recovery has been made from a thatched house, which was situated in an open place, easily accessible to all, and in fact, it does not belong to the petitioner. Save and except the suspicion, there is no material suggesting the complicity of the petitioner. The identification of the petitioner by the *Chowkidar* and the neighbors also appeared to be unfounded as the *Chowkidar* is the resident of a different village. The prosecution case also falls to the ground for the simple reason that the witnesses are none else, but the police personnel, and thus it is submitted that had this recovery been made from the house of the petitioner, there would have been signature of the family members of the petitioner, but this is not the case of the prosecution. Moreover, while carrying out the search and seizure, Video recording has also not been conducted and, as such, it violates Section 105 of the BNSS. The petitioner is also carrying fair antecedent and he undertakes that he will fully cooperate in the proceeding of the Court.

5. On the other hand, learned APP for the State

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vehemently opposes the bail application and submits that the recovery of illicit liquor and the utensils used for manufacturing illicit liquor from the house of the petitioner clearly bars anticipatory bail in terms of Section 76(2) of the Bihar Prohibition and Excise Act.

6. Considering the rival submissions advanced by learned Advocates for the respective parties and taking note of the serious discrepancies in conducting search and seizure, inasmuch as the house from where the recovery is said to have been made is a thatched house, constructed in an open place, and as per the submission of the petitioner, it does not belong to him as well as the fair antecedent and the lack of materials which attract the rigors to maintain the anticipatory bail, let the petitioner, named above, in the event of his arrest or surrender before the court below within four weeks from the date of receipt/production of a copy of this order, be released on bail on furnishing bail bonds of Rs.10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge (Excise-II)-cum-District & Additional Sessions Judge, Hajipur, Vaishali in connection with Vaishali P.S. Case No. 510 of 2026, subject to the condition as laid down under Section 482 (2) of the Bharatiya Nagarik Suraksha

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Sanhita, 2023 with the further condition that one of the bailors shall be the own/close relative of the petitioner.

(Harish Kumar, J)

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