IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 74376 of 2026

CNR No. BRHC011085912026

Arising Out of PS. Case No.-1457 Year-2026 Thana- Excise P.S. District- Muzaffarpur

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Gautam Kumar son of Krishan Mohan Ojha @ Oli Ojha Resident of Village- Ward no. 8, Khabra, Ps- Sadar, Muzaffapur, Dist- Muzaffarpur

... ... Petitioner/s

Versus

The State of Bihar

... ... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr.Manendra Kumar Sinha
For the Opposite Party/s : Mr.Mohammed Arif

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

2 28-10-2026 Heard Mr. Manindra Kumar Sinha, learned advocate for the petitioner and learned Additional Public Prosecutor for the State.

2. The petitioner apprehends his arrest in connection with Muzaffarpur Excise P.S. Case No. 1457 of 2026, registered for the offences punishable under Sections 30(a)/32(3) of the Bihar Prohibition and Excise Act, 2016 (Amended 2018& 2022).

3. Acting on a tip-off regarding storage and sale of illicit wine, the police conducted raid in the house of the petitioner and recovered 726.105 litres of illicit wine.

4. Learned advocate for the petitioner, referring to the search and seizure memo, has contended that the entire recovery

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is said to have been made from an abandoned house and accessible to all. It is further contended that the petitioner has nothing to do with the place in question from where recovery is made, and in fact, he has been residing in Ward Number 8, whereas the abandoned house is situated at Ward Number 10. The entire prosecution case falls to the ground for the simple reason that such recovery, had it been made from the house of the petitioner, there would have been signature of the family members of the petitioner, but the witnesses to the search and seizure are none else but the police personnel. There is complete violation of Section 103(4) of the BNSS. The reason behind the false implication is said to be two criminal antecedents of identical nature. The petitioner undertakes that he will fully cooperate in the proceeding.

5. On the other hand, learned advocate for the State vehemently opposed the bail application and submits that the recovery from the house of the petitioner clearly bars the anticipatory bail in view of Section 76(2) of the Excise Act, 2016.

6. Considering the rival submissions advanced by learned advocates for the respective parties and taking note of the discrepancies noted hereinabove while carrying out the

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search and seizure, inasmuch as the witnesses to the search and seizure are none else but the police personnel, as also the fact that one of the co-accused person facing identical allegation has been extended the privilege of anticipatory bail by a Bench of this Court in Criminal Miscellaneous No. 68927 of 2026, as well as the lack of material which attracts the rigors to maintain the anticipatory bail, let the petitioner abovenamed 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 Judge Excise-II, Muzaffarpur in connection with Muzaffarpur Excise P.S. Case No. 1457 of 2026, subject to the conditions laid down in Section 482(2) of the Bharatiya Nagrik Suraksha Sanhita, 2023, with the further condition that one of the bailors shall be the own/close family members of the petitioner.

(Harish Kumar, J)

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