

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.12605 of 2023**

Arising Out of PS. Case No.-7 Year-2022 Thana- MOTIHARI MUFASIL District- East  
Champaran

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PRABHU MUKHIYA @ PRABHU NATH, Male, aged about 44 years, S/O  
RAMESHWAR MUKHIYA, Resident of Village- Harkaina, P.S.- Motihari  
Muffasil, District- East Champaran.

... .. Petitioner

Versus

THE STATE OF BIHAR

... .. Opposite Party

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**Appearance :**

For the Petitioner : Mr. Anil Kumar, Advocate

For the Opposite Party : Mr. Bhanu Pratap Singh, A.P.P.

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**CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH**  
**ORAL ORDER**

2      29-04-2023                      Heard learned counsel for the petitioner and  
  
learned A.P.P. for the State.

The petitioner is apprehending his arrest in  
connection with Motihari Muffasil P.S. Case No. 7 of 2022  
for the offence registered under Sections 30(a)(b), 32 and  
41(i) of the Bihar Prohibition and Excise (Amendment) Act,  
2018.

The prosecution story, in brief, is that total 14  
liters wine is said to have been recovered.

It has been submitted by learned counsel for the  
petitioner that the petitioner has got no criminal antecedent.  
He has falsely been implicated in the present case. There is



no allegation of tampering with the witnesses alleged against the petitioner. It is alleged that total 14 liters wine is recovered. Out of which, 2 liters wine is said to have been recovered from the Banswari of the petitioner. The petitioner is named in the F.I.R. The name of the petitioner has transpired in the present case as the alleged recovery is made from the Banswari of the petitioner. Except for this, there is no other substantive evidence to suggest the implication of the petitioner in this case. Nothing incriminating has been recovered from the conscious possession of the petitioner. The petitioner had no knowledge regarding the alleged incident. There is no compliance of Section 100 Cr. P.C. Learned counsel for the petitioner has placed reliance upon the order dated 13.04.2022 passed by the Hon'ble Supreme Court in *Criminal Appeal No. 626 of 2022, arising out of SLP (Crl.) No. 3005 of 2022 (Sweta Kumari-Versus-The State of Bihar)*.

On behalf of the State, it is submitted that the petitioner is named in the F.I.R/ Complaint Case.

Considering the aforesaid facts and circumstances,



the petitioner, above named, in the event of arrest/surrender before the learned court below within a period of twelve weeks from today, be released on anticipatory bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand Only) with two sureties of the like amount each to the satisfaction of the learned Exclusive Special Excise Court No.-1, East Champaran at Motihari, in connection with Motihari Muffasil P.S. Case No. 7 of 2022, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

**(Sudhir Singh, J)**

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