

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35951 of 2023**

Arising Out of PS. Case No.-961 Year-2022 Thana- ARA NAGAR District- Bhojpur

DEWAN MAHTO son of Bhagrasan Mahto Village- Ratanpura Bin Toli
Pokhra Ps- Ara Nagar, Dist- Bhojpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Manoj Kumar Singh, Advocate
For the Opposite Party/s : Mr. Sanjay Kumar Singh, A.P.P.

CORAM: HONOURABLE MR. JUSTICE KHATIM REZA
ORAL ORDER

2 21-07-2023 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. The petitioner apprehends arrest in connection with
Ara Town P.S. Case No. 961 of 2022 dated 16.11.2022, instituted
for the offence punishable under Sections 30(a) of Bihar
Prohibition and Excise Act.

3. As per the case of prosecution, 50 litres country-
made *Mahua* liquor has been recovered from the motorcycle
bearing Registration No. BR04AH0783.

4. Learned counsel for the petitioner submits that the
petitioner is innocent and he has been falsely implicated in this
case. It is further submitted that petitioner is not named in the
F.I.R. and nothing has been recovered from the possession of the
petitioner. The seized liquor has been recovered from the co-
accused, namely, Nirhu Kumar Mahto. The petitioner has been



made accused only on the basis of owner of the said motorcycle. It is also submitted that the said co-accused, namely, Nirhu Kumar Mahto, who happens to be nephew of the petitioner, requested him to give his motorcycle. So he gave his motorcycle and the said recovery was made from the said motorcycle which was driven by Nirhu Kumar Mahto. Learned counsel for the petitioner has placed reliance on 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] in the case of Sweta Kumari Vs State of Bihar* whereby, the anticipatory bail was granted despite the fact, liquor bottles were recovered from scooty, was not being driven by the owner at the relevant point of time. Lastly, it has been submitted that the petitioner has no criminal antecedents.

5. Learned A.P.P. has opposed the prayer for bail of the petitioner.

6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest/surrender of the petitioner in connection with Ara Town P.S. Case No. 961 of 2022, he shall be released on anticipatory bail upon furnishing bail bonds of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the



satisfaction of the learned court of Exclusive Special Judge-Ist
Excise, Bhojpur at Ara, subject to condition as laid down under
Section 438(2) of the Cr.P.C.

(Khatim Reza, J)

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