

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.62026 of 2023

Arising Out of PS. Case No.-179 Year-2023 Thana- BIBHUTIPUR District- Samastipur

Nitish Kumar @ Banti Kumar, Son of Shambhu Singh, Village-Shivnathpur,
P.S.-Bibhutipur, District-Samastipur.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Dipak Kumar, Advocate

For the Opposite Party/s : Mr. Kanhaiya Kishore, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 13-10-2023 Heard learned counsel for the petitioner and learned
counsel for the State.

2. In this case, the petitioner is apprehending his arrest in connection with Bibhutipur P.S. Case No. 179 of 2023, registered on 29.05.2023 for the offences under Section 30(a) of the Bihar Prohibition and Excise Act, 2022.

3. As per prosecution case, police received information about smugglers of illicit liquor bringing some illicit liquor and when the checking of vehicles was started, two persons were seen fleeing away from the spot on a motorcycle after seeing the police party. On being chased, one of them was apprehended and from the motorcycle, recovery of 36.720 litres of foreign liquor was made. The apprehended person disclosed the name of the petitioner.

4. Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case.



Nothing incriminating has been recovered from the person or possession of this petitioner. Nothing has come on record to connect the petitioner with the offence as alleged. The petitioner is neither the owner of the motorcycle nor he has any connection with the seized contraband. The name of the petitioner transpired in this case on the basis of confessional statement of apprehended co-accused Mukesh Kumar. The petitioner has no relationship with the apprehended co-accused. Learned counsel further submits that the petitioner is having criminal antecedent of two cases of similar nature and two cases of some other offence, but he is on bail in all the cases.

5. Learned APP opposes the prayer for anticipatory bail made on behalf of the petitioner.

6. Having regard to the facts and circumstances and submissions made on behalf of the parties and considering the fact that the name of the petitioner transpired in this case on the basis of confessional statement of co-accused and further considering the possibility of false implication, let the petitioner above named, in the event of his arrest or surrender before the court concerned within a period of eight weeks from today, be released on bail, on furnishing bail bonds of Rs. 20,000/- (Rupees Twenty thousand Only) with two sureties of the like amount each to the satisfaction of learned Exclusive Excise Court-1st, Samastipur/concerned court in connection with Bibhutipur P.S. Case No. 179 of 2023, subject to the conditions as laid down under Section 438(2) of the Code of



Criminal Procedure and other following conditions:

- (i) One of the bailors will be a close relative of the petitioner.
- (ii) The petitioner will remain present on each and every date fixed by the court below, if so required by the learned trial court.
- (iii) If the criminal antecedent of the petitioner other than mentioned in this petition is found, the bail bond of the petitioner will not be accepted.
- (iv) The learned trial court is also directed to confirm the details of the seized motorcycle, and if it is registered under the name of any of the family members of the petitioner, the bail bond of the petitioner will not be accepted by the learned trial court.

(Arun Kumar Jha, J)

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