

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.65125 of 2023

Arising Out of PS. Case No.-10 Year-2023 Thana- DHIBRA District- Aurangabad

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Arun Kumar Gupta Son of Suresh Prasad Gupta R/O Harishchandra Talab
Road, PS- Nawada Tonw, Dist- Nawada (BIHAR)

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Aman Vishal, Advocate

For the Opposite Party/s : Mr.Ajit Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 18-10-2023 Heard Mr. Aman Vishal, learned counsel appearing
on behalf of the petitioner and Mr. Ajit Kumar, learned APP for
the State.

2. Petitioner seeks pre-arrest bail in connection with
Dhibra P.S.Case No.10 of 2023 , registered for the offences
punishable under Section 30(a) of Bihar Prohibition and Excise
(Amendment) Act, 2018.

3. As per the allegation made in the FIR, recovery is
from a motorcycle bearing registration no.BR24K2721, Engine
No.HA10ELDHK77398.

4. Learned counsel appearing on behalf of the
petitioner submits that as per the engine number, the
motorcycle, which has been seized, is registered in the name of
the petitioner, however the registration number of his



motorcycle is BR27C5877, which was stolen and before any FIR could be lodged, the smuggler and the persons involved in the illicit trade of liquor had used the said stolen motorcycle in supplying 92 bottles of liquor (each 180 ml. X 92 = total 16.560 ltr.) to the respective destination and in the same process, the motorcycle was apprehended along with the seized liquor by the police. Accused Ravindra Chaudhary, from whose possession the motorcycle and the liquor had been recovered, was taken into custody. It is further submitted that on the basis of report of the District Transport Officer, Nawada, the said motorcycle is registered in the name of the petitioner, whose registration number has been tampered and engine number has been used for the purpose of trade of illicit liquor.

5. Learned counsel further submits that the petitioner has not filed any FIR nor he has claimed the motorcycle bearing Engine No.HA10ELDHK77398. On these grounds, the learned counsel seeks to release the petitioner on bail because no incriminating article including motorcycle has been recovered from his conscious possession.

6. Mr. Ajit Kumar, learned APP for the State submits that in recent times, trade of illicit liquor has boomed in the State of Bihar and in hooch tragedy, innocent citizens after



consuming the spurious liquor die. *Mafias* are controlling the business of illicit liquor and there is nexus between the police official and the excise officials including the higher authorities against whom cases have been registered after investigation. Present is not a new case, in which mechanism of using fake registration number of the vehicle to avoid arrest and facilitating the trade in clandestine manner has been used by the accused. In the present case, the petitioner's complicity can not be denied even though the recovery is of only 16.560 ltr. of liquor. The manner of business of illicit liquor by the accused persons is surprising because the stolen motorcycle has not been claimed by the petitioner and only after lodging the FIR, he has given such information to obtain bail. Learned counsel for the State on these grounds submits that the petitioner does not deserve to be released on bail.

7. Having considered the rival submissions made on behalf of the parties as well as taking into account the total failure of the State Authorities to restrict the illicit trade of liquor and to implement prohibition in the State, due to which several cases arising out of offences punishable under Bihar Prohibition and Excise Act, 2016, have clogged before this Court and the Apex Court. I am of the opinion that in such



circumstances, petitioner, above named, is directed to be released on pre-arrest bail, in the event of his arrest or surrender before the learned court below within a period of four weeks from today, on furnishing bail bond of Rs.50,000/- (Fifty Thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, Excise II, Aurangabad in connection with Dhibra P.S.Case No.10 of 2023, subject to conditions as laid down under Section 438(2) of the Cr.P.C.

(Purnendu Singh, J)

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