

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.64745 of 2023

Arising Out of PS. Case No.-301 Year-2021 Thana- BARUN District- Aurangabad

Ajay Yadav S/O Naresh Yadav Village- Rakshani, Tengra, Ps- Barun, Dist-
Aurangabad (Bihar)

... .. Petitioner/s

Versus

The state of bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Ms. Leelawati Kumari, Adv.

For the Opposite Party/s : Mr. Mritunjay Kr Nirala, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 17-10-2023 Heard Ms. Leelawati Kumari, learned counsel

appearing on behalf of the petitioner and learned Additional

Public Prosecutor for the State.

2. The petitioner apprehends his arrest in connection
with Barun P.S. Case No. 301 of 2021, registered for the
offences punishable under Section 30(a) of the Bihar Prohibition
and Excise (Amendment) Act, 2018.

3. The police, on a secret information with regard to
trade of illicit liquor, intercepted a motorcycle bearing
Registration No. BR26F0798. However, noticing the police
party, two persons, who were riding on the same, succeeded in
fleeing away. In course of search, total 30 litres country-made
liquor was recovered.

4. It is submitted on behalf of the petitioner that the



name of the petitioner has been implicated in this case in the capacity of he being the owner of the motorcycle in question. She submits that during the course of raid, one another motorcycle has also been recovered containing some illicit wine but the petitioner has no concern with such motorcycle. In fact the motorcycle of the petitioner was parked near the house of one Lalan Pandey but on account of ulterior reason, in course of raid, the name of the petitioner has been implicated in this case showing the recovery from the motorcycle, though the petitioner has no concern with the illicit wine. The seizure list witnesses are non-else but the police personnel, thus there is no compliance of Section 100 of the Cr. P.C., apart from other infirmities in the search and seizure. She lastly submits that the petitioner bears fair antecedent and undertakes that he will fully cooperate in the investigation or in the proceeding of the court.

5. On the other hand, learned counsel for the State opposed the bail application.

6. Regard being had to the submissions made on behalf of the parties and considering the fact that the name of the petitioner has been implicated in this case only in the capacity of the owner of the motorcycle in question, apart from other infirmities in the search and seizure, coupled with the fair



antecedent of the petitioner, 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 Special Judge, Excise Court No. 1, Aurangabad in connection with Barun P.S. Case No. 301 of 2021, subject to the conditions laid down in Section 438(2) Cr.P.C. 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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