

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.66963 of 2023

Arising Out of PS. Case No.-50 Year-2023 Thana- AMBA District- Aurangabad

Ajit Kumar, Son of Mandip Baitha, resident of village- Mandra, P.S.- Kandi,
District- Garhwa (Jharkhand)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sunil Kumar Dubey, Advocate

For the Opposite Party/s : Mrs. Pushpa Sinha, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 01-11-2023 Heard Mr. Sunil Kumar Dubey, learned counsel

appearing on behalf of the petitioner and the learned APP for the

State.

2. The petitioner is apprehending his arrest in connection with Amba P.S. Case No. 50 of 2023 registered for the offence punishable under Section 30 (a) of the Bihar Prohibition and Excise (Amendment) Act, 2018.

3. In course of patrolling, the police apprehended a person, who was riding on a black Hero Splendor motorcycle, and on search total 9 litres of country made liquor was recovered.

4. It is submitted on behalf of the petitioner that the petitioner has been made accused in this case only in the capacity of being owner of the motorcycle and as per the F.I.R.



even the name of the petitioner has not been arrayed in the accused column. He next submits that in fact on the alleged date of occurrence, the accused Aryan Rajak, who happens to be the brother-in-law of the petitioner, had taken the motorcycle for his personal use and the petitioner was not knowing this fact that the same has been used for any illegal purpose. That apart, the petitioner is a man of fair antecedent and undertakes that he will fully cooperate in the investigation or in the proceeding of the court. He has also drawn the attention of this Court to the infirmities made in search and seizure.

5. On the other hand, learned APP for the State opposes the bail application and submits that the present anticipatory bail application of the petitioner is not maintainable in view of Section 76(2) of the Bihar Prohibition and Excise (Amendment) Act, 2018.

6. So far the maintainability of the anticipatory bail application is concerned, the conundrum has also been dispelled by the Full Bench of this Court in the case of ***Ram Vinay Yadav Vs. The State of Bihar, reported in 2019 (4) PLJR 1089.***

7. Regard being had to the submissions made on behalf of the parties and considering the fact that the petitioner has been made accused in the capacity of he being the owner



of the vehicle, in question, coupled with the fair antecedent, let the petitioner, named above, in the event of his arrest or surrender before the court below within four weeks from the date of receipt/production of a copy of this order, be released on bail on furnishing bail bonds of Rs.10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, Excise Court No.-I, Aurangabad in connection with Amba P.S. Case No. 50 of 2023, subject to the condition as laid down under Section 438 (2) of the Cr.P.C. with the further condition that one of the bailors shall be the own/close relative of the petitioner.

(Harish Kumar, J)

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