

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.9143 of 2023

Arising Out of PS. Case No.-436 Year-2022 Thana- KISHANGANJ District- Kishanganj

Prem Kumar Gupta, aged about 33 years, Male, Son Of Shree Tarkeshwar Prasad, R/O Village- Tarabani, P.S.- Tarabani, District- Araria.

... .. Petitioner

Versus

THE STATE OF BIHAR

... .. Opposite Party

Appearance :

For the Petitioner : Mr. Sunil Kumar, Advocate

For the Opposite Party : Mr. Gauri Shankar Gupta, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 20-04-2023 Heard learned counsel for the petitioner and
learned A.P.P. for the State.

The petitioner is apprehending his arrest in connection with Special Case No. 1350 of 2022, arising out of Kishanganj P.S. Case No. 436 of 2022 for the offence registered under Section 30(a) of the Bihar Prohibition and Excise Act, 2016.

The prosecution story, in brief, is that total 14.580 liters wine is said to have been recovered from the Motorcycle in question.

It has been submitted by learned counsel for the petitioner that the petitioner has got no criminal antecedent. He has falsely been implicated in the present case. There is



no allegation of tampering with the witnesses alleged against the petitioner. It is alleged that total 14.580 liters wine is recovered from the Motorcycle in question. The petitioner is alleged to be the owner of the said Motorcycle in question. The said Motorcycle was already sold by the petitioner to one Nitish Paswan vide Annexure-3/1 to the present bail application. The petitioner is not named in the F.I.R. The name of the petitioner has transpired in the present case as the petitioner is owner of the said Motorcycle in question. Except for this, there is no other substantive evidence to suggest the implication of the petitioner in this case. Nothing incriminating has been recovered from the conscious possession of the petitioner. The petitioner had no knowledge regarding the alleged incident. There is no compliance of Section 100 Cr. P.C. Learned counsel for the petitioner has placed reliance upon 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 (Sweta Kumari-Versus-The State of Bihar)*.

On behalf of the State, it is submitted that the



petitioner is not named in the F.I.R/ Complaint Case.

Considering the aforesaid facts and circumstances, the petitioner, above named, in the event of arrest/surrender before the learned court below within a period of twelve weeks from today, be released on anticipatory bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand Only) with two sureties of the like amount each to the satisfaction of the learned A.D.J.-II-cum-Special Judge (Excise)-I, Kishanganj, in connection with Special Case No.1350 of 2022, arising out of Kishanganj P.S. Case No. 436 of 2022, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Sudhir Singh, J)

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