

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29588 of 2024

Arising Out of PS. Case No.-343 Year-2023 Thana- WARISNAGAR District- Samastipur

Avkash Kumar Son of Krishna Kumar Mahto R/o Gotiyahi, Reora, P.S.-
Khanpur, Dist.- Samastipur, Bihar - 848117

... .. Petitioner/s

Versus

The State of Bihar Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Piyush Kumar Pandey, Adv.

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

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 05-07-2024 Heard 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 Waris Nagar P.S. Case No. 343 of 2023 (Excise GR No.
410/2023), registered for the offences punishable under Sections
30(a) of the Bihar Excise and Prohibition (Amendment) Act,
2016.

3. The police on a secret information intercepted
Mahindra XUV car bearing Registration No. BR0 01FU1174.
Noticing the police party, the persons seated therein trying to
flee away however one of them was apprehended by the police.
Soon thereafter a motorcycle, which was following the XUV
Car also came there but the two persons riding the motorcycle



succeeded in fleeing away after leaving a carton of liquor. On search, total 338.4 litres of illicit liquor was recovered. The petitioner is said to be the owner of the XUV; hence the FIR has been lodged.

4. Learned counsel for the petitioner contended that the name of the petitioner has been implicated in this case only because of he being the owner of the XUV however, it is a fact that the XUV car in question was being run by the driver and the petitioner was not even aware of the fact that the illicit wine was being carried by him. It is also contended that there are various other discrepancies in the search and seizure. Moreover the apprehended person did not disclose the name of the petitioner as accomplice. The petitioner undertakes that he will fully co-operate in the investigation and proceeding of the Court. It is also the contention of the petitioner that in fact because of his past criminal antecedents, though of different nature, the name of the petitioner has been implicated in this case however, the petitioner is on bail in both the cases.

5. On the other hand, learned counsel for the State opposed the bail application and submits that the complicity of the petitioner cannot be denied as he is the owner of XUV car by which the illicit wine was being carried.



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 on account of he being owner of the car in question and there is no other material suggesting that it is the petitioner on whose instruction the illicit wine was being carried, let the petitioner above named 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.25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned Special Judge Excise, 2nd, Samastipur in connection with Waris Nagar P.S. Case No. 343 of 2023, 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.

7. The application stands allowed.

(Harish Kumar, J)

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