

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35036 of 2024

Arising Out of PS. Case No.-35 Year-2024 Thana- KHIJARSARAI District- Gaya

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Jitendra Yadav, S/o- Chamru Yadav, R/o Village- Dali Bigha PS- Belaganj
Dist- Gaya

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Ms. Rabia Gulnaz, Adv.

For the Opposite Party/s : Ms. Madhuri Lata, APP

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 30-05-2024 Heard Ms. Rabia Gulnaz, learned counsel for the

petitioner and the learned APP for the State.

2. The petitioner apprehends his arrest in connection with Khizersarai P.S. Case No. 35 of 2024 registered for the offence punishable under Section 30(a) of the Bihar Prohibition and Excise (Amendment) Act, 2022.

3. While the police were on patrolling duty they got secret information regarding transportation of illicit wine and acting upon the same, intercepted a person who was coming on a motorcycle. However, noticing the police party, the person riding the motorcycle succeeded in fleeing away after leaving it. On search, 20 lts. of Mahua liquor was recovered.

4. Learned counsel for the petitioner vigorously argued that only on account of he being the owner of the



motorcycle, his name has been implicated in this case. Neither the petitioner was identified by any person at the place of occurrence nor there is any other material suggesting his complicity in the present crime. It is further submitted that, as a matter of fact, on the alleged date of occurrence, the motorcycle was given to one of the villagers. The petitioner was not knowing this fact that the said motorcycle was used for illicit purpose. In absence of any knowledge or any *mens rea*, no offence, much less under Section 30(a) of the Bihar Prohibition and Excise (Amendment) Act, 2022 is made out, is the contention of the learned counsel for the petitioner. It is also contended that, in fact, on account of past criminal antecedent of identical nature, the details whereof have been mentioned in para-3 of the bail application, the name of the petitioner has been implicated. Lastly, she contended that there are other infirmities in the search and seizure and all the witnesses are police personnel.

5. On the other hand, learned counsel for the State opposed the bail application and submitted that the petitioner is carrying four criminal cases over his head.

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 only on account of be being the owner of the motorcycle, there is no other material suggesting his complicity in the present crime, coupled with the infirmities as shown in the search and seizure, let the above named petitioner, be released on 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. 20,000/- (Twenty thousand) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Excise, Court No.2, Gaya, in connection with Khizersarai P.S. Case No. 35 of 2024, subject to the condition as laid down under Section 438(2) of the Cr.P.C, with further condition that one of the bailors shall be the own/close family members of the petitioner.

(Harish Kumar, J)

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