

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.50028 of 2024

Arising Out of PS. Case No.-726 Year-2023 Thana- Excise P.S. District- Kishanganj

Mohammad Azam @ Md. Azam Son Of Kurban Ali Resident of Village-
Dakaita, P.S.- Rauta, Dist- Purnea

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Manish Kumar No 13, Advocate

For the Opposite Party/s : Mr.Rana Randhir Singh, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 28-08-2024 Heard learned counsel for the petitioner and learned
APP for the State.

2. In the present case, the petitioner is apprehending his arrest in connection with Excise Case No. 726 of 2023, registered on 18.05.2023 for the offences under Sections 30(a) and 32(3) of the Bihar Prohibition & Excise (Amendment) Act, 2018.

3. As per prosecution case, during checking of vehicle, one motorcycle was intercepted and on suspicion two persons carrying a bag on that motorcycle were apprehended. 3.250 litres of beer was recovered from the said bag. The petitioner is stated to be owner of the motorcycle.

4. Learned counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in this case. The petitioner has no concern with the seized liquor or the



motorcycle which was seized at the time of arrest of two co-accused persons. The petitioner had already sold the motorcycle to one Md. Sakib on 17.12.2021 whereas the occurrence took place on 18.05.2023. As the ownership could not be transferred in the name of the purchaser, the petitioner has been made in this case without any fault of the petitioner. The apprehended co-accused persons are relatives of Md. Sakib. Learned counsel further submits that moreover, the petitioner has not been apprehended from the spot and he was not even present in the country as he was in Kingdom of Kuwait in course of his employment. The petitioner left the country on 02.01.2022 and returned on 05.05.2024. Learned counsel further submits that on the grounds as aforesaid no liability under Excise Act could be fastened upon the petitioner. The petitioner is having clean antecedent.

5. Learned APP opposes the submission made on behalf of the petitioner.

6. Having regard to the facts and circumstances and submissions made on behalf of the parties and considering the vague and remote nature of allegation and further considering the absence of the petitioner from country during the relevant period, let the petitioner above named, in the event



of his arrest or surrender before the court concerned within a period of eight weeks from today, be released on bail, on furnishing bail bonds of Rs.10,000/- (Rupees Ten Thousand Only) with two sureties of the like amount each to the satisfaction of learned Additional District & Sessions Judge-IV cum Special Judge (Excise) – II, Kishanganj/concerned court in connection with Special Case No. 763 of 2023, arising out of Excise Case No. 726 of 2023, subject to the condition as laid down under Section 438(2) of the Code of Criminal Procedure and other following conditions :

- (i) One of the bailors will be a close relative of the petitioner.
- (ii) The petitioner will remain present on each and every date fixed by the court below, if so required by the learned trial court.

(Arun Kumar Jha, J)

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