

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.56846 of 2024

Arising Out of PS. Case No.-232 Year-2024 Thana- NAUTAN District- West Champaran

Subhash Prasad @ Subap Prasad, S/o Late Ramswarup Bhagat, R/o village-
Bhatanhan, Tikuliya, Ward no. 9, P.S. - Sugauli, Distt. - East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Kundan Rathore, Advocate

For the Opposite Party/s : Mr. Ram Anurag Singh, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 21-08-2024 Heard Mr. Kundan Rathore, learned Advocate for the
petitioner and learned APP for the State.

2. The petitioner seeks regular bail, who is in custody in connection with Nautan P.S. Case No. 232 of 2024 registered for the offences punishable under Section 414 of the Indian Penal Code and Section 30 (a) of the Bihar Prohibition and Excise (Amendment) Act, 2022.

3. The police on a secret information, intercepted the petitioner, who was coming on a motorcycle. On search, 14.940 litres of Indian made foreign liquor was recovered from the motorcycle of the petitioner. It is also alleged that in course of checking, other motorcycle riders were also apprehended and from their possession total 177.440 litres of Indian made foreign liquor was recovered.



4. Learned Advocate for the petitioner contended that so far as Section 414 of the Indian Penal Code is concerned, the same is not applicable in the case of the petitioner, as the petitioner is the owner of the motorcycle, in question. Moreover, there is total denial of recovery of any illicit liquor from the dickey of the motorcycle. It is further contended that in course of vehicle checking the police seized various vehicles and motorcycles and as the petitioner was also present with the motorcycle, his name has been implicated in the present case showing recovery from his possession only because of one past criminal antecedent in identical nature. It is next contended that there is no independent witness to the seizure list, apart from the other infirmities in the search and seizure. Moreover, the petitioner is in custody since 20.06.2024 and the investigation of the crime is complete.

5. On the other hand, learned APP for the State vehemently opposes the bail application and submits that earlier also the petitioner was apprehended in identical matter and, as such, the petitioner appears to be the habitual offender.

6. Regard being had to the submissions made on behalf of the parties and considering the fact that there is no independent witness to the search and seizure, coupled with the



fact that the petitioner is the owner of the motorcycle and the investigation of the crime is complete, let the petitioner, named above, 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 Exclusive Special Excise Court No.-I, Bettiah, West Champaran in connection with Nautan P.S. Case No. 232 of 2024, subject to the condition that one of the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

- (i) The petitioner will cooperate in conclusion of the trial.
- (ii) He will remain present on each and every date of trial till disposal of the case.
- (iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.
- (iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(Harish Kumar, J)

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