

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.62378 of 2024

Arising Out of PS. Case No.-234 Year-2024 Thana- ADAPUR District- East Champaran

Dhiraj Tiwari, S/o Bachcha Tiwari, R/o Village- Birwa, P.S- Majhauri,
District- West Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rajesh Kumar, Adv.

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

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 04-09-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner seeks regular bail, who is in custody in connection with Aadapur P.S. Case No. 234 of 2024 registered for the offence punishable under Section 30(a) of the Bihar Prohibition and Excise Amendment Act, 2022 and Section 317(5) of the Bharatiya Nyaya Sanhita, 2023.

3. The police in course of patrolling intercepted the petitioner, who was coming on a motorcycle tying a bag over it. Noticing the police party, the petitioner trying to flee away after leaving the motorcycle, however, he was apprehended by the police. On search, 42 litres country made liquor was recovered.

4. It is contended on behalf of the petitioner that, in fact, on account of vehicle checking, some altercation took



place with the police personnel and thereafter the present FIR has been instituted, showing recovery from the possession of the petitioner. The petitioner has no concern with the motorcycle in question. The reason behind the implication of the petitioner in the present crime is also one criminal antecedent of identical nature, the particular of which has been mentioned in para-3 of the bail application. The alleged recovery has been made from a public place, however, there is no independent witness and, as such, in complete defiance of Section 100 CrPC. Now, the petitioner is in custody since 20.07.2024 and the investigation of the crime is complete.

5. On the other hand, learned counsel for the State vehemently opposed the bail application.

6. Regard being had to the submissions made on behalf of the parties and considering the fact that the petitioner has no concern with the motorcycle in question and now the petitioner has been incarcerated since 20.07.2024, coupled with the infirmities in the search and seizure, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Excise Court No.2, East Champaran, Motihari in connection with



Aadapur P.S. Case No. 234 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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