

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.69353 of 2024

Arising Out of PS. Case No.-262 Year-2024 Thana- FATEHPUR District- Gaya

Bhuneshwar Yadav Son of Late Neman Yadav Resident of Village -
Mocharak, P.S.- Fatehpur, District - Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Vijay Anand, Advocate

For the Opposite Party/s : Mr. Nand Kishore Prasad, APP

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

2 18-12-2024 1. Heard learned counsel for the petitioner and
learned APP for the State.

2. Petitioner apprehends his arrest in connection with
Fatehpur P.S. Case No. 262 of 2024 dated 06.05.2024
registered for the offence punishable under Section 30(a) of
Bihar Prohibition of Excise Act.

3. As per the prosecution story, the informant stated
that on 06.05.2024 while on patrolling duty he saw a
motorcyclist coming from Jhurang and on seeing the police he
fled away leaving behind the motorcycle from which 100 litres
of illegal country made *mahua* liquor was recovered.

4. The main submissions advanced by the learned
counsel for the petitioner are that the instant matter relates to the
recovery of 100 litres country made *Mahua* liquor from a



motorcycle though the petitioner is a registered owner of the said motorcycle but admittedly he was not apprehended at the spot of the recovery and he has been made accused mainly on account of being owner of the alleged motorcycle which was allegedly used in trafficking the illegal *Mahua* liquor. It is further submitted that the petitioner has fair and clean antecedent and as per the FIR police chased the accused who was carrying the alleged liquor but did not succeed in catching him and the said fact is completely unbelievable as in the circumstance of chasing by police one cannot easily escape from the clutches of the police.

5. Learned APP appearing for the State has opposed the bail prayer of the petitioner.

6. Heard both the sides and perused the FIR and order impugned. The instant matter relates to the recovery of 100 litres of country made *Mahua* liquor which was being carried on a motorcycle and upon seeing the police party the driver of the motorcycle managed to escape, though the petitioner is not named in the FIR but he is admittedly registered owner of the alleged motorcycle and the case is under investigation and petitioner's defence as to his motorcycle being used by some other person at the time of recovery is not believable at this



stage, accordingly this court finds the petitioner’s prayer to be not maintainable as per the provisions of Section 76(2) of Bihar Prohibition and Excise (Amendment) Act, 2018, so, considering these aspects, this court is not inclined to grant the relief of anticipatory bail to the petitioner. Accordingly his prayer stands rejected.

7. However, considering the petitioner's fair and clean antecedent he is given a liberty to surrender before the trial court if he avails this liberty and surrenders within four weeks from today then the learned trial court will decide his regular bail prayer without being prejudiced with this order according to merit at the earliest.

(Shailendra Singh, J)

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