

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.73745 of 2024

Arising Out of PS. Case No.-238 Year-2024 Thana- JAYNAGAR District- Madhubani

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Vivek Kumar Paswan @ Vivek Kumar S/o- Dharmendra Kumar Paswan @
Dharmendra Kumar @ Dharm Paswan Resident of Village- Bagema Tol, P.S.
Jaynagar, District- Madhubani

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Shailendra Kumar Jha, Adv.
For the Opposite Party/s : Mr. Rana Randhir Singh, APP

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 21-10-2024 Learned counsel for the petitioner undertakes to file supplementary affidavit in course of the day through his clerk correcting the actual recovery/seizure of the Nepali liquor which according to him is 270 litre and not 135 litre.

2. Heard the parties.

3. The petitioner is in custody in connection with Jaynagar P.S. Case No. 238 of 2024 for the offence punishable under sections 274, 275, 317(5), 3(5) of B.N.S. and under Section 30(a) of Bihar Prohibition and Excise Act lodged on 23.08.2024 by the informant, Ramji Singh.

4. As per the prosecution story, the informant alleged that during patrolling, upon secret information, moved towards towards the house of Sobhit Mukhiya. As they reached the



place, the accused tried to escape, he was taken into custody, the person concerned was Sobhit Mukhiya who disclosed his name as also that the liquor is behind the house in the bushes. On search, 135 litre Nepali country made liquor recovered/seized. Further, upon information that another set of country made liquor is coming from the border side, two motorcycles were intercepted, the accused persons apprehended, the petitioner being one of them and 135 litre country made liquor recovered/seized. The led to the FIR.

5. Learned counsel for the petitioner submits that he has no role to play in the Sobhit Mukhiya case. Further, he being the passenger had no role to play even in the second recovery/seizure of the bags from the motorcycle and none of the motorcycle belonged to him, he has already suffered by being in custody since 24.08.2024 and do not have criminal antecedent.

6. Learned APP opposes the prayer for bail submitting that the recovery/seizure from motorcycle is 135 litre and the petitioner was riding on it.

7. Considering the submissions put forward by the parties as also the fact that the motorcycle does not belong to him, the earlier recovery/seizure is from the bushes near the



house of Sobhit Mukhiya, he is in custody since 24.08.2024 and do not have criminal antecedent, this Court is inclined to extend him the privilege of bail with conditions.

8. Let the petitioner be released on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) each with two sureties of like amount each to the satisfaction of learned Additional Sessions Judge-II sum Special Judge, Excise Act, Madhubani in connection with Jaynagar P.S. Case No. 238 of 2024 subject to the following conditions:

(i) one of the bailor should be the family member/relative of the petitioner who shall provide official document to show his/her bona fide;

(ii) the petitioner shall appear on each and every date before the Trial Court and failure to do so for two consecutive dates without plausible reason will entail cancellation of his bail bond by the Trial Court itself;

(iii) the petitioner shall appear before the concerned police station every fortnight for six months to mark his attendance;

(iv) the petitioner shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for



cancellation of the bail bonds;

(v) the petitioner shall desist from committing any criminal offence again, failing which the State shall be at liberty to take steps for cancellation of his bail bonds.

(Rajiv Roy, J)

Vijay Singh/-

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