

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.81187 of 2024

Arising Out of PS. Case No.-155 Year-2022 Thana- ANDHRAMATH District- Madhubani

Uttam Lal Sahu S/O Laxman Sah R/o- Ladania, P.S- Khajauli, District-
Madhubani.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr. Dashrath Mehta, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 04-12-2024 Heard learned counsel appearing on behalf of the

petitioner and the learned Additional Public Prosecutor for the

State.

2. The petitioner apprehends his arrest in connection
with Andhramath P.S. Case No. 155 of 2022, registered for the
offences punishable under Sections 30(a) of the Bihar Excise
(Prohibition) Amendment Act, 2022.

3. In course of night patrolling, the police on
suspicion intercepted a motorcycle bearing Registration No.
BR32R-1760. However, when noticing the police party the
persons who were setting on the motorcycle succeeded in
fleeing away. On search 72 litres of Nepali Mamashri wine was
recovered.

4. Learned counsel appearing on behalf of the

petitioner submits that only on account of the petitioner being the owner of the motorcycle, in question, his name has been implicated in this case. In fact on the fateful day, the motorcycle was taken by one of the villagers and the petitioner was not even knowing, as to whether the motorcycle was used for any illicit purpose. The petitioner bears fair antecedent and he undertakes that he will fully co-operate in the proceeding of the Court. There are other infirmities in the of search and seizure as has been pointed out by the learned Advocate for the petitioner

5. On the other hand, learned counsel for the State opposed the pre-arrest bail application submitted that the anticipatory bail of the petitioner is not maintainable in view of Section 76(2) of the Excise Act.

6. Regard being had to the submissions made on behalf of the parties and considering the fact that only on account of the petitioner being owner of the motorcycle, in question, his name has been implicated in this case and there is no other material disclosing the fact that the petitioner was the person, who was riding the said motorcycle and he has any connection with the alleged recovered wine. In absence of the aforesaid materials, this Court finds that the bar provided under Section 76(2) of the Excise Act is not attracted, coupled with his

fair antecedent, let the petitioner above named be released on bail, in the event of his arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, upon furnishing bail bonds of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned Special Judge, Excise Act, Jhanjharpur, Madhubani in connection with Andhramath P.S. Case No. 155 of 2022, subject to the conditions laid down in Section 438(2) Cr.P.C. with the further condition that one of the bailors shall be the own/close family members of the petitioner.

(Harish Kumar, J.)

Jyoti Kumari/-

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