

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.81839 of 2023**

Arising Out of PS. Case No.-370 Year-2023 Thana- KORHA District- Katihar

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RUPESH KUMAR SON OF SIKANDAR MUKHIYA @ SIKENDRA  
MUKHIYA RESIDENT OF VILLAGE - MAHINATHPUR, WARD NO.05,  
P.S. - KORHA, DISTRICT - KATIHAR

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr.Pawan Kumar Singh

For the Opposite Party/s : Mr.Jharkhandi Upadhyay

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**CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY**  
**ORAL ORDER**

2      04-01-2024                      Heard learned counsel for the petitioner and  
  
learned A.P.P. for the State.

2. The petitioner seeks bail in connection with  
  
Korha P.S. Case No. 370 of 2023 registered for the offences  
  
punishable under Section 30(a) of the Bihar Prohibition and  
  
Excise (Amendment) Act ,2018.

3. As per prosecution case, there was alleged  
  
recovery of total 17.94 litre foreign liquor from the house of the  
  
petitioner and from the motorcycle which was parked in the  
  
courtyard of the petitioner.

4. Learned counsel for the petitioner submits that  
  
petitioner is in custody since 29.09.2023 and bears no criminal  
  
antecedent. Learned counsel orally submits that charge sheet has



been submitted in the case and there is no likelihood of tampering with the prosecution evidence. He further submits that petitioner is quite innocent and has committed no offence as alleged in the FIR. Basically, nothing has been recovered from the conscious possession of the petitioner. He further submits that petitioner is not the owner of the motorcycle in question. He further submits that place of recovery is joint house and petitioner has no concern with the alleged recovery. He further submits that there is no compliance of Section 100 of Cr.P.C.

5. The learned A.P.P. for the State vehemently opposes the prayer for bail of the petitioner.

6. Considering the facts and circumstances of the case, period of custody, keeping in view clean antecedent of the petitioner, argument advanced on behalf of both sides and also taking into consideration the material available on record, let the petitioner above named be released on bail, on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Addl. Distt. & Sessions Judge-cum-Exclusive (Excise) Judge, Court No.2, Katihar in connection with Korha P.S. Case No. 370 of 2023 , subject to following conditions:-

(i) One of the bailors shall be either father or



mother or sister or brother or wife or the person who has sworn the affidavit in bail application.

(ii) Petitioner will co-operate in trial and will remain present on all dates and absence for two consecutive dates without appropriate permission, would be a ground for cancellation of bail by the learned Trial court itself.

(iii) If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

**(Alok Kumar Pandey, J)**

vashudha/-

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