

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4231 of 2024

Arising Out of PS. Case No.-343 Year-2023 Thana- WARISNAGAR District- Samastipur

Chandramani Kumar Son of Shiv Narayan Mahto Resident of village- Jagdish
Revara,P.S- Khanpur Dist. Samastipur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Bijay Bhushan Prasad, Advocate

For the Opposite Party/s : Mr. Shyam Bihari Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 07-02-2024 Heard Mr. Bijay Bhushan Prasad, learned counsel
appearing on behalf of the petitioner and Mr. Shyam Bihari
Singh, learned Additional Public Prosecutor for the State.

2. The petitioner apprehends his arrest in connection
with Warisnagar P.S. Case No. 343 of 2023, registered for the
offences punishable under Section 30(a) of the Bihar Prohibition
and Excise (Amendment) Act, 2022.

3. It is alleged that during the course of night
patrolling, the police intercepted a white colour Mahindra XUV,
bearing Registration No. BR-01FU-1174. However, noticing the
police party, the driver and one person succeeded in fleeing
away and the other person who was also sitting in the vehicle
was apprehended by the police, who disclosed the name of the
petitioner. In the mean time, two other person also came with a



motorcycle containing a carton, however, the motorcycle riders also succeeded in fleeing away by throwing the carton. From both the vehicles, total 338.4 litres Indian made foreign liquor was recovered.

4. Learned counsel appearing on behalf of the petitioner submits that save and except the disclosure made by the apprehended person, there is no materials suggesting the complicity of the petitioner in the present crime, that apart the disclosure made before the police is hit by section 25 and 26 of the Indian Evidence Act, 1872. Further submission has been made that there are various other infirmities in the search and seizure, apart from non-compliance of Section 100 of the Code of Criminal Procedure. The petitioner is neither owner of the vehicles which were apprehended by the police nor has any concern with the recovered illicit wine. Moreover, the petitioner is a man of fair antecedent and undertakes before this Court that he will fully cooperate in the investigation or in the proceeding of the Court

5. On the other hand, learned counsel for the State opposed the pre-arrest bail application and submits that a huge quantity of illicit wine has been recovered and the name of the petitioner has been disclosed by the apprehended person.



6. Regard being had to the submissions made on behalf of the parties and considering the fact that the petitioner has neither concern with the vehicles in question nor with the alleged recovered illicit wine, coupled with the fair antecedent and the fact that save and except the disclosure there is no other material, 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.20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of the learned Special Judge, Excise – 02 Samastipur in connection with Waris Nagar P.S. Case No. 343 of 2023, 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)

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