

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2851 of 2025

Arising Out of PS. Case No.-469 Year-2024 Thana- SURSAND District- Sitamarhi

Shambhu Mukhiya Son of Sukeshwar Mukhiya Resident of village- Harari
Dularpur, Via Sursand, PS- Sursand, Distt.- Sitamarhi

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Dwij Raj, Adv.

For the Opposite Party/s : Mr. Ajay Kumar No. 2, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 15-02-2025 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner apprehends his arrest in connection with Sursand P.S. Case No. 469 of 2024 registered for the offence punishable under Section 30(a) of the Bihar Prohibition and Excise Amendment Act, 2022.

3. The police, in course of patrolling duty, on a secret information, intercepted a person, who was riding on a motorcycle. However, noticing the police party, the person succeeded in fleeing away after leaving his motorcycle. In course of search, 18 liters of Nepali Saufi Wine was recovered from a plastic bag, which was kept on the motorcycle.

4. Learned counsel for the petitioner contended that on the fateful day, the motorcycle was taken away by one Md. Taukir and the petitioner was not knowing this fact that his



motorcycle has ever been used for the purposes of carrying illicit wine. Only on account of he being owner of the motorcycle, the name of the petitioner has been implicated in this case; however, the petitioner bears fair antecedent having no concern with the illicit wine. It is lastly contended that the name of the petitioner has transpired on the disclosure made by the Chowkidars, which also does not inspire any confidence, inasmuch as the Chowkidars were not present at the place of occurrence.

5. On the other hand, learned counsel for the State opposed the bail application.

6. Regard being had to the submissions made on behalf of the parties and considering the fact that the identification of the petitioner had been made by the Chowkidars, who were not present at the place of occurrence and thus appears to be doubtful, coupled with the fact that save and except the petitioner being owner of the motorcycle in question, there is no other material suggesting his complicity in the crime and, as such, the bar provided under Section 76(2) of the Bihar Prohibition and Excise Act, 2016 is not attracted, apart from the fair antecedent of the petitioner, let the above named petitioner, be released on bail, in the event of his arrest or



surrender before the learned Court below within a period of four weeks from today, on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, Excise Court, Excise-II, Sitamarhi in connection with Sursand P.S. Case No. 469 of 2024, subject to the condition as laid down under Section 438(2) of the Cr.P.C, with further condition that one of the bailors shall be the own/close family members of the petitioner.

(Harish Kumar, J)

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