

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.13105 of 2025

Arising Out of PS. Case No.-232 Year-2024 Thana- NAUTAN District- West Champaran

Rakesh Kumar Son of Ramswarup Prasad Resident of Village-Ward No 09
Bhatahan Tikuiya, PS -Sugauli, District- East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Umesh Kumar Gupta

For the Opposite Party/s : Mr.Ram Bilash Roy Raman

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

2 19-03-2025 Heard the parties.

2. The petitioner apprehends his arrest in connection with Nautan P.S. Case No. 232 of 2024, registered for the offences punishable under Section 414 of the Indian Penal Code and Section 30(a) of the Bihar Prohibition and Excise (Amendment) Act, 2022

3. The police, on a tip off illegal transportation of illicit wine, conducted raid and found that some of the miscreants are engaged in loading and keeping the illegal liquor on four motorcycles in a sugarcane field. Noticing the police party, the accused persons succeeded in fleeing way, except one namely, Subash Prasad. Four motorcycles were seized and 177.440 litres of Indian made foreign liquor was recovered. The name of the petitioner has been implicated in the case on account of he being the owner of the motorcycle bearing



Registration No. BR05AT1875 from which altogether 66.5 litres Indian made foreign liquor was recovered.

4. Learned Advocate for the petitioner contended that in fact on the alleged date of occurrence the motorcycle in question was taken away by one of the villagers and the petitioner was not knowing this fact that his motorcycle has ever been used, for any illicit purpose. Save and except the petitioner being the owner of the vehicle, there is no material suggesting the involvement of the petitioner in the crime. Neither he was found present at the place of occurrence nor any material suggesting the involvement of the petitioner in trafficking of illicit wine. The petitioner bears fair antecedent. Two of the co-accused persons having identical allegation have been allowed the privilege of anticipatory bail by co-ordinate Benches of this Court, copies of which are placed on record as Annexure-P/2 series.

5. On the other hand, learned Advocate for the State opposes the bail application and submits that the complicity of the petitioner cannot be ruled out as his motorcycle was seized from the place of occurrence from which recovery has been made.

6. Regard being had to the submissions made on



behalf of the parties and considering the infirmities in the search and seizure as also the fact that save and except the petitioner being the owner of the vehicle in question, there is no material suggesting his complicity; moreover no recovery has been made from conscious and constructive possession of the petitioner, thus the provision under Section 76(2) of the Bihar Prohibition and Excise Act would not attract in the case in hand; The other accused persons having identical allegation have been allowed the privilege of anticipatory bail, coupled with the fair antecedent of the petitioner, let the petitioner abovenamed 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 Exclusive Special Judge, Excise-I, Bettiah, West Champaran in connection with Nautan P.S. Case No. 232 of 2024, 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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