

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31457 of 2025

Arising Out of PS. Case No.-390 Year-2023 Thana- FATEHPUR District- Gaya

Naresh Raj S/o- Laxman Mehta village- Bageshwari Gumati PS- Delha
District- Gaya

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr. M. K. Nirala, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 16-05-2025 Heard the parties.

2. The petitioner apprehends his arrest in connection with Fatehpur P.S. Case No. 390 of 2023 registered for the offences punishable under Section 30(a) of the Bihar Prohibition and Excise (Amendment) Act, 2018.

3. Allegedly, in course of search total 80 litres of country made *mahua* liquor was recovered from two motorcycles; one bearing Chassis No. MBLHA11ATG9E44130 and another bearing registration No. BR27F5103. However, persons who were riding on the motorcycles succeeded in fleeing away, after leaving their motorcycles on road.

4. Learned Advocate for the petitioner contended that neither presence of the petitioner at the place of occurrence has been shown nor any incriminating material has been recovered from the whereabouts of the petitioner; only on



account of the fact that he being the owner of one of the motorcycle, in question, his name has been implicated in this case. In fact, on the fateful day, one of the neighbours of the petitioner has taken away the motorcycle of the petitioner on the pretext of purchasing some medicines and the petitioner was not knowing this fact as to whether the motorcycle has ever been used for any illicit purpose. Non involvement of the petitioner in the crime also fortified for the simple reason that the petitioner bears no criminal antecedent. There are various infirmities in search and seizure, coupled with the non compliance of Sections 103 and 105 of the BNSS. The petitioner undertakes before this Court that he will fully cooperate in the proceeding of the court.

5. On the other hand, learned Advocate for the State vehemently opposed the bail application and submitted that recovery has been made from the motorcycle of the petitioner.

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 the owner of the motorcycle, his name has been implicated without there being any material suggesting any connection of the petitioner with the recovered illicit wine, coupled with the fair antecedent as also the



infirmities in search and seizure and the absence of material which attracts the rigors provided under Section 76(2) of the Bihar Prohibition and Excise Act, 2016, 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-4, Gaya in connection with Fatehpur P.S. Case No. 390 of 2023, subject to the conditions laid down in Section 482(2) of the Bharatiya Nagrik Suraksha Sanhita, 2023, 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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