

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38614 of 2025

Arising Out of PS. Case No.-218 Year-2025 Thana- Excise P.S. District- Aurangabad

Raushan Kumar S/O Upendra Paswan R/O Village- Parasiya, P.S- Jamhore,
Dist.- Aurangabad.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Santosh Kumar Pandey, Advocate
For the State : Mr. Damodar Prasad Tiwary, APP

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

2 25-06-2025 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner seeks bail, apprehending his arrest,
in connection with Aurangabad (Excise) P.S. Case No. 218 of
2025, dated 23.02.2025, registered for the offences punishable
under Sections 30(a) and 32(3) of the Bihar Prohibition and
Excise Act, 2018.

3. As per allegation, two co-accused persons, viz.,
Sarvottam Kumar and Yashwant Kumar were carrying 2.5 litre
of illicit liquor in a bag, riding a motorcycle bearing
Registration No. BR26X-9772 and only case against the
petitioner is that the said motorcycle belongs to him and hence,
he has been implicated in this case.

4. Learned counsel for the petitioner submits that the



Petitioner is innocent and has falsely been implicated in this case. He further submits that the name of the petitioner has been implicated in this case only on the basis of Section 32 of the Excise Act as per which there is presumption of connivance of the owner of any vehicle used in transporting the illicit liquor. But as per the alleged facts and circumstances, the motorcycle belonging to the petitioner cannot be held to be involved in transporting the illicit liquor. Here, the quantum of illicit liquor is only 2.5 litre and that was allegedly being carried by the co-accused persons in a bag, riding on motorcycle. In this regard, he also refers to and relies upon the judgment passed by a Division Bench of this Court in **Civil Writ Jurisdiction Case No.7920 of 2023**, titled as **Sunaina @ Suneina Vs. The State of Bihar & Ors.**

5. It is also stated in paragraph no. 2 of the bail petition that the petitioner has not moved this Court earlier either for anticipatory bail or regular one in the instant case.

6. It has further been stated in paragraph no.3 of the bail petition that the petitioner has one criminal antecedent.

7. However, learned APP for the State vehemently opposes the prayer of the Petitioner for bail.

8. Considering the fact that 2.5 litre of illicit liquor



was being carried by the co-accused in a bag riding the motorcycle, belonging to the petitioner, the motorcycle cannot be held to be involved in the transportation of illicit liquor and hence, presumption under Section 32 of the Excise Act against the petitioner/owner of the vehicle does not arise. As such, there is no *prima facie* case against the petitioner and hence, the anticipatory bail petition is maintainable.

9. Accordingly, **this petition is allowed**, directing the petitioner, above-named, to be enlarged on bail, in the event of his arrest or surrender before the court below within a period of eight weeks from the date of receipt / production of a copy of this order, on his furnishing bail bonds in the sum of Rs. 10,000 /- (Ten Thousand) with two sureties of the like amount each to the satisfaction of learned concerned Court Below, in connection with Aurangabad (Excise) P.S. Case No. 218 of 2025, subject to the conditions as laid down under Section 482 (2) of the B.N.S.S., 2023 and on the following conditions:

(i) In case, it is brought to the notice of the court below that the petitioner has any criminal antecedents, learned court below shall cancel the bail bonds of the petitioner after hearing him and getting satisfied that the petitioner has concealed his criminal antecedents despite his knowledge of the



same.

(ii) In case, it is brought to the notice of the court below that statement regarding previous bail petition is wrong, learned court below shall cancel the bail bonds of the petitioner.

(Jitendra Kumar, J)

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