

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.59730 of 2025

Arising Out of PS. Case No.-61 Year-2020 Thana- ASHOK PAPER MILL District-
Darbhanga

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Bhavesh Kumar Choudhary S/o Amar Nath Choudhary R/o Vill. -
Majhauriya, Ward No.09, P.S. - Ashok paper Mills, District - Darbhanga,
Bihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Vinay Kumar Mishra, Adv

For the State : Mr. Shyam Kumar Singh, APP

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CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

2 22-09-2025 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner seeks bail, apprehending his arrest,
in connection with Ashok Paper Mill (Pator O.P.) P.S. Case No.
61 of 2020, dated 26.03.2020 registered for the offences
punishable under Section 30(a) of Bihar Prohibition and Excise
Act 2016.

3. As per allegation, three persons were riding on
Royal Enfield Motorcycle bearing Registration No. BR07AC-
7767 and when the motorcycle was intercepted and riders of the
motorcycle were searched by the police, it was found that 1.260
litre of illicit liquor was being carried by them wrapped in a
gamcha (a piece of cloth).



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 petitioner was not named in the FIR, but during course of investigation, he has been made accused only on the basis that he is owner of the vehicle in question. He further submits that as per the allegation, the motorcycle in question, which belongs to the petitioner, cannot be deemed to be carrying the contraband and hence, the motorcycle was not used in the commission of the alleged offence and therefore, there is no question of implication of the petitioner in the alleged offence. In this context, he also refers to and relies upon the following judgments passed by a Division Bench of this Court of which I was also a part, wherein it was held that in such situation, the motorcycle cannot be deemed to be carrying the contraband and it cannot be held to be used in the commission of the alleged offence :

- (i) **Sunaina Vs. State of Bihar**
2024 SCC OnLine Pat 851
- (ii) **Munna Ram Vs. The state of Bihar**
2024 SCC OnLine Pat 852
- (iii) **Amarjeet Yadav Vs. The State of Bihar**
2024 SCC OnLine Pat 853
- (iv) **Binit Kumar Vs. State of Bihar**
2024 SCC OnLine Pat 850
- (v) **Shanti Devi Vs. State of Bihar**
2024 SCC OnLine Pat 849



5. Hence, as per learned counsel for the petitioner, there was no question of seizure of the vehicle, nor the law permits the impleadment of the owner of the vehicle as accused in such situation. As such, no *prima facie* case is made out as per the alleged facts and circumstances.

6. 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.

7. It has further been stated in paragraph no.3 of the bail petition that the petitioner has no criminal antecedents.

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

9. Considering the aforesaid facts and circumstances and the fact that no *prima facie* case is made out against the petitioner and the anticipatory bail is maintainable, **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 Ashok Paper Mill (Pator O.P.)



P.S. Case No. 61 of 2020, 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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