

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.74703 of 2024

Arising Out of PS. Case No.-773 Year-2024 Thana- Excise P.S. District- Gaya

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Ankit Kumar Son of Kamlesh Prasad Chauriya @ Kamlesh Kumar Resident
of Village- Paleya Makhdumpur, P.S.- Makhdumpur, Distt.- Jehanabad

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Vijay Kishore Bharti, Adv.

For the Opposite Party/s : Mr. Pushpa Sinha.1, APP.

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CORAM: HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA
ORAL ORDER

3 15-04-2025 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. The petitioner apprehends his arrest in a case registered for the offences punishable under Section 30(a) and 32(3) of the Bihar Prohibition and Excise (Amendment) Act, 2018.

3. The recovery of total 13.75 litres of illicit liquor has been shown from two motorcycles.

4. Learned counsel for the petitioner submits that petitioner was not apprehended from the spot, as such, nothing was recovered from his conscious possession and he came to be implicated merely on the basis of the fact that he is the owner of one of the seized motorcycles which have been used in the said offence. With regard to the said motorcycle, learned



counsel for the petitioner has submitted that he has parked his motorcycle at a particular place, but the same was seized by the informant merely on suspicion. Learned counsel for the petitioner further submits that the process of search and seizure also amounts to violation of the mandatory provisions as there is no independent witness to the said seizure and the same was done only in the presence of the raiding parties. It is further submitted that similarly situated co-accused, namely, Rina Kumari has been enlarged on anticipatory bail by this Court vide order dated 07.10.2024 in Cr. Misc. No. 72818 of 2024.

5. Learned APP for the State has opposed the prayer for bail submitting that the petitioner has two criminal antecedents out of which one is of similar in nature. In response to the same, learned counsel for the petitioner has submitted that both the cases are of the years 2017 and 2020, respectively and the petitioner is already on bail in the said cases.

6. Considering the facts that there is no recovery from physical and conscious possession of the petitioner, there is no independent witness to the said seizure/search and also the fact that similarly situated co-accused, namely, Rina Kumari, has been enlarged on anticipatory bail, I am inclined to grant the privilege of anticipatory bail to the petitioner. Let the petitioner,



above named, in the event of his arrest or surrender before the Court below within four weeks, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Exclusive Excise Judge No.3, Gaya in connection with Excise P.S. Case No. 773 of 2024, subject to the condition as laid down under Section 438 (2) of the Cr.P.C/ 482 (2) of the BNSS, 2023.

7. The criminal antecedent of the petitioner as mentioned in para 3 of the bail application shall also be verified at the time of furnishing bail bonds.

(Soni Shrivastava, J)

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