

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2308 of 2025

Arising Out of PS. Case No.-295 Year-2023 Thana- PHULWARIYA District- Gopalganj

Vivekanand Upadhyay S/O Shesh Nath Upadhyay R/O 819 E, Vishnupuram,
Basharatpur, P.S- Shahpur, Dist.- Gorakhpur, Uttar Pradesh.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Abhishek Kumar Dwivedi, Adv.

For the Opposite Party/s : Mr.Nitya Nand Tiwary, A.P.P.

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

4 21-02-2025 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

02. In the present case, the petitioner is apprehending his arrest in connection with Phulwariya P.S. Case No. 295 of 2016 registered for the alleged offences under Section 30 (a) of the Bihar Prohibition and Excise Amendment Act.

03. As per prosecution case, during checking of vehicles, a car was intercepted and two persons tried to flee away from the car who were apprehended. Recovery of 84.600 litre of India made foreign liquor was made. The petitioner is stated to be the owner of the vehicle from which the recovery of illicit liquor was made.

04. Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case.



The petitioner was not apprehended from the spot and nothing incriminating has been recovered from his person or possession. The petitioner was not present at the place of occurrence and no role can be ascribed to him. Petitioner has no involvement in the matter and has nothing to do with the seized liquor. Learned counsel for the petitioner submits that petitioner is the owner of the car in question. No offence under any of the provisions of Excise Act is made out as the petitioner lent his vehicle to co-accused Sunil Yadav and his vehicle was misused. Petitioner is having clean antecedent.

05. Learned A.P.P. for the State opposes the submission made on behalf of the learned counsel for the petitioner. Learned A.P.P. submits that the name of the petitioner transpired during investigation for also being involved in the dealing of illicit liquor.

06. Having regard to the facts and circumstances and submission made on behalf of the parties and considering the clean antecedent of the petitioner, vague nature of allegation and possibility of false accusation, let the petitioner above named, in the event of his arrest or surrender before the court concerned within a period of eight weeks from today, be released on bail, on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand Only) each with two sureties of the like amount each to the satisfaction of Court of learned Additional District & Sessions Judge-XIII-



cum-Special Excise Court No. 1,Gopalganj in connection with
Phulwariya P.S. Case No. 295 of 2016, subject to the condition
laid down under Section 438(2) of the Code of Criminal Procedure
and other following conditions:

- (i) One of the bailors will be a
close relative of the petitioner.
- (ii) The petitioner will remain
present on each and every date
fixed by the court below, if so
required by the learned trial
court.

(Arun Kumar Jha, J)

Anuradha/-

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