

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.84147 of 2025

Arising Out of PS. Case No.-226 Year-2025 Thana- Gaura P.S. District- Saran

Kamlesh Kumar, S/o Vinod Ray, R/o Village - Rauja, P.S - Town, District - Saran at Chapra

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Alok Kumar Alok, Advocate.
For the State : Ms. Sucheta Yadav, APP

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

2 23-12-2025 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner seeks bail, apprehending his arrest, in connection with Gaura P.S. Case No. 226 of 2025 dated 25.10.2025 registered for the offence punishable under Section 30(a) of Bihar Prohibition and Excise Act, 2016.

3. As per allegation, co-accused Ram Prasad Mahto, Nagendra Mahto, Surendra Mahto and Anil Manjhi along with some unknown persons were manufacturing and selling illicit liquor and when the Police reached the place of occurrence, they saw 5-6 persons sitting and two Motorcycles standing there and seeing the Police, all the persons fled away. It is further alleged that 10 litres of illicit liquor has been recovered from both the Motorcycle each besides 100 litres of illicit liquor which was



being prepared in a drum, was destroyed.

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 is not named in the FIR but he is owner of one of the Motorcycles bearing registration No. BR-04-AD-6979. He also submits that the petitioner is no way involved in the alleged offence. He had given the Motorcycle to his friend for some urgent work. He also submits that even as per allegation, Motorcycles were not being used in conveyance of illicit liquor. They were standing at the place of recovery. As per best case of the prosecution, 10 litres of illicit liquor was recovered from the *dicky* of each vehicle, but it is not a case of the Police that illicit liquor was being transported to somewhere else. At most, keeping 10 litres of illicit liquor in the *dicky* of the Motorcycle amounts to only preparation for conveyance of the illicit liquor. As such, Motorcycle of the petitioner cannot be deemed to be used in transporting the illicit liquor. Hence, the petitioner being the owner of the Motorcycle, can not be implicated in the case, because, there is no criminal liability of the petitioner. He also submits that seizure is totally vitiated for want of any independent witness and compliance with the mandatory rules



for seizure.

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 been made accused in two other cases.

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

8. Considering the aforesaid facts and circumstances, **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 Gaura P.S. Case No. 226 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 antecedent other than



the disclosed one, 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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