

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.84282 of 2025

Arising Out of PS. Case No.-290 Year-2025 Thana- MALAHI District- East Champaran

LALBABU SAH Son of Mahendra Sah Resident of Village - Puchrukhoiya,
P.S.- Malahi, District - East Champaran

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Suraj Kumar Tiwari

For the Opposite Party/s : Mr.Ram Anurag Singh

CORAM: HONOURABLE MR. JUSTICE AJIT KUMAR

ORAL ORDER

2 17-12-2025 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Malahi P.S. Case No. 290 of 2025, F.I.R dated 04.09.2025 registered for the offences punishable under Sections 317(5), 338, 336(3) of BNS, 2023 and 30(a) of the Bihar Prohibition and Excise Amendment Act, 2018.

3. As per the prosecution case, the informant recorded his self-statement on 04.09.2025 stating that while on patrolling duty along with other police officials, he received secret information at about 12:25 P.M. that one person was transporting liquor on a motorcycle from Konaha to Majhariya. Acting upon the said information, the police proceeded towards Majhariya, where at about 13:05 P.M. one person on a



motorcycle allegedly fled on seeing the police, leaving the motorcycle behind. It is alleged that the Mahal Chowkidar disclosed the name of the person who fled as the petitioner. Upon search of the abandoned motorcycle, 96 tetra packs of 8 PM liquor (180 ml each), totaling 17.280 litres, were allegedly recovered. The liquor and the motorcycle were seized, a seizure memo was prepared, and on verification it was found that the registration and chassis numbers did not match on the HHD machine, leading to registration of the FIR.

4. Learned counsel for the petitioner submits that on the basis of information given by Mahal Chwokidar that the name of the petitioner has transpired in this case. While the recovery is made from one Hero Splendor Motorcycle bearing Registration No. BR05AE-1670. There is no independent witness to the seizure list, thereby violating the mandatory provisions, search and seizure is said to be made. The petitioner is a man of means, and merely because there is similar case having been lodged against this petitioner, the name of the petitioner has been implicated. While the petitioner is in no way connected and there is nothing incriminating against this petitioner. It has been next submitted that the case which is pending against this petitioner, in which the petitioner is on bail.



5. Learned APP for the State opposes the prayer for anticipatory bail application.

6. Regard being had to the submission made by the parties, taking into consideration the fact that illicit liquor has not been recovered from the constructive possession and / or premises belonging to the petitioner and considering the aforesaid fact that the recovery has been made from Hero Honda Motorcycle, and the same is no way connected to this petitioner, accordingly, this Court is inclined to grant anticipatory bail to the petitioner.

7. Let the petitioner, above named, be released on anticipatory bail in the event of arrest or surrender before the court below within a period of four weeks from today on furnishing bail bond of Rs. 10,000/- (rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, Excise Court No. 1, East Champaran, Motihari in connection with Malahi P.S. Case No. 290 of 2025 subject to the condition as laid down under Section 482(2) of the B.N.S.S., 2023.

(Ajit Kumar, J)

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