

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.89209 of 2024

Arising Out of PS. Case No.-575 Year-2023 Thana- AKBARPUR District- Nawada

Suman Kumar, S/O Late Bholu Prasad Gupta, Resident of Main Road
Nawada, P.S- Nawada, District - Nawada

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sheo Kumar Prasad, Adv.

For the Opposite Party/s : Mr. Sanjay Kumar Sharma, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 08-01-2025 Heard the learned Advocate for the petitioner and the
learned APP for the State

2. The petitioner apprehends his arrest in connection
with Akbarpur P.S. Case No. 575 of 2023, registered for the
offences punishable under Section 30(a) of the Excise Act.

3. The police in course of vehicle checking
intercepted a motorcycle bearing Registration No. BR27A-9593,
noticing the police party the rider of the motorcycle succeeded
in fleeing away. On search total 10 litres country made liquor
was recovered.

4. Learned counsel appearing on behalf of the
petitioner contended that only on account of the fact that the
petitioner being owner of the vehicle, in question, his name has
been implicated in this case. In fact, on the fateful day, the

motorcycl was taken away by one of the villagers of the petitioner and the petitioner was not knowing this fact that the motorcycle, in question, had ever been used for any illicit purpose. The petitioner has neither any concerned with the illicit wine nor there is any other material suggesting the complicity of the petitioner in the crime. Drawing the attention of this Court to the seizure list, it is further contended that though the recovery of the motorcycle has been made from a public place, but the seizure list witnesses are none else but the police personnel. The petitioner bears fair antecedent and he undertakes before this Court that he will fully cooperate in the proceeding of the Court.

5. On the other hand, learned counsel for the State opposed the pre-arrest bail application and submitted that the recovery has been made from the motorcycle of the petitioner.

6. Regard being had to the submissions made on behalf of the parties and considering the fact that the alleged recovery has not been made from the conscious and constructive possession of the petitioner nor there is any cogent material and, as such, the bar provided under Section 76(2) of the Excise Act is not applicable in the case in hand. Save and except the allegation that the petitioner being owner of the motorcycle, there is no other materials suggesting the complicity of the

petitioner in the crime, coupled with his fair antecedent, let the petitioner above named be released on bail, in the event of his arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, upon furnishing bail bonds of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned Exclusive Special Excise Court-I, Nawada, in connection with Akbarpur P.S. Case No. 575 of 2023, subject to the conditions laid down in Section 438(2) Cr.P.C. with the further condition that one of the bailors shall be the own/close family members of the petitioner.

(Harish Kumar, J.)

Jyoti Kumari/-

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