

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3851 of 2025

Arising Out of PS. Case No.-206 Year-2023 Thana- BARACHATTI District- Gaya

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Amit Kumar Son of Shrichand Yadav @ Shrichandra Yadav Village- Jamuni
P.S- Mohanpur District- Gaya

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Prithivi Raj Singh, Adv.

For the Opposite Party/s : Mrs. Pronoti Singh, APP

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CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

2 24-01-2025 Heard learned counsel for the Petitioner and

learned APP for the State.

2. The petitioner apprehends his arrest in connection with Barachatty (Mohanpur) P.S. Case No. 206 of 2023 dated 23.02.2023 registered for the offence punishable under Section 30(a) of the Bihar Prohibition & Excise Act.

3. As per the prosecution story, the informant acting upon a secret information received on 22.02.2023 at about 8:30 A.M., intercepted a Honda City car, at 9:00 A.M., and seized a total of 122.680 litres of foreign liquor from the car and also arrested one, Bhawani Yadav, who disclosed that the petitioner, Amit Kumar, was the owner of the car and he had instructed him to take the cartons filled with liquor to Bodh Gaya.



4. Mr. Prithivi Raj Singh, learned counsel appearing for the petitioner submits that this is the second attempt of the petitioner to get the relief of anticipatory bail as the first bail prayer was rejected by this Court vide order dated 25.10.2024 passed in Cr. Misc. No. 76887 of 2024 and the fresh ground taken by the petitioner is based on the observation made by the Hon'ble Apex Court in the case of **Sweta Kumari vs. State of Bihar** passed in **Criminal Appeal No. 626 of 2022** in which nine bottles of liquor were recovered from a scooty and the owner of that scooty, who was a twenty one year old girl, was made accused and her prayer for anticipatory bail was rejected by the trial court as well as the High Court mainly considering that lady being the owner of the seized scooty and the same situation is available in the present matter as admittedly, the petitioner was not apprehended at the spot with the alleged liquor and the alleged Honda City car, which is alleged to have been seized with the alleged liquor, no doubt stands in the name of this petitioner but the petitioner had no knowledge of the transporting of the alleged liquor by this vehicle. It is further submitted that the petitioner has fair and clean antecedent.

5. Mrs. Pronoti Singh, learned APP appearing for the State has opposed the prayer for bail of the petitioner and



submits that the petitioner's earlier prayer for same relief has already been rejected on merit.

6. Heard both the sides and perused the relevant materials including the judgment of the Hon'ble Apex Court passed in the case of **Sweta Kumari** (*supra*) upon which reliance has been placed by the petitioner's counsel while pressing the instant second prayer to get the relief of bail. This Court finds no substance in the fresh ground taken by the petitioner as the facts of the present matter are completely different from the facts of the cited case as the apprehended co-accused disclosed at the time of seizing the alleged liquor that it was the petitioner who had loaded the seized liquor on the alleged vehicle and the same was to be delivered to some person at the direction of the petitioner, on this aspect, as well as considering the large quantity of liquor being recovered from the vehicle of the petitioner, this Court finds petitioner's case to be not fit to get a relief in the light of the principle laid down by the Hon'ble Apex Court in the aforesaid judgment. Accordingly, his present prayer is also rejected, however, considering the fair and clean antecedent of the petitioner, he is given a liberty to surrender before the court below. If he avails this liberty and surrenders within four weeks from today then the learned trial



court will consider his regular bail prayer without being prejudiced with this order according to merit as early as possible.

(Shailendra Singh, J)

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