IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.74045 of 2026

CNR No. BRHC011079332026

Arising Out of PS. Case No.-178 Year-2026 Thana- NAYAGAON District- Saran

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Rohit Kumar S/o Munna Rai R/V- Rahimpur, P.S- Sonepur, Dist.-Saran

... ... Petitioner/s

Versus

The State of Bihar

... ... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr. Sanjeet Kumar Singh, Advocate
For the Opposite Party/s : Ms. Asha Kumari, APP

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

2 28-10-2026 Heard learned Advocate for the petitioner and learned Additional Public Prosecutor for the State.

2. The petitioner apprehends his arrest in connection with Nayagaon P.S. Case No. 178 of 2026, registered for the offences punishable under Section 30(a) of the Bihar Prohibition and Excise (Amendment) Act 2022.

3. Suspecting that a motorcycle rider was carrying illicit liquor, the police tried to intercept him. However, he managed to flee, leaving behind the motorcycle bearing Registration No. BR04AW-1976. During the course of the search, a total of 30 liters of country-made liquor, kept in two polythene bags, was recovered.

4. Learned Advocate for the petitioner submitted that

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the name of the petitioner has been arrayed as an accused in this case only by virtue of he being owner of the motorcycle, in question. In fact, on the alleged date of occurrence, the motorcycle, in question, was taken away by one of his villagers on the pretext of doing some household work. However, he was not acquainted with the fact that his motorcycle has ever been used for the purposes of any illicit work. The witnesses to the search and seizure are also none-else, but the police personnel. Besides, no video recording has been conducted, and as such, it is argued that there is complete violation of Section 103(4) and 105 of the BNSS. The reason behind the false implication of the petitioner is said to be one criminal antecedent of identical nature. In the aforesaid premise, it is lastly submitted that the rigors provided under Section 76(2) of the Bihar Prohibition and Excise Act would not be applicable in this case.

5. On the other hand, learned Advocate for the State vehemently opposed the bail application and submitted that the use of the petitioner's motorcycle in the crime clearly suggests his complicity.

6. Having considered the rival submissions advanced by learned Advocate for the respective parties and taking note of the discrepancies in the search and seizure clearly suggesting

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non-compliance of Section 103(4) and 105 of the BNSS, as also the lack of materials which attracts the rigors to maintain the anticipatory bail and no cogent materials collected during the course of investigation suggesting his complicity, 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 2nd Exclusive Special Excise Judge, Saran at Chapra in connection with Nayagaon P.S. Case No. 178 of 2026, subject to the conditions laid down in Section 482(2) of the Bharatiya Nagrik Suraksha Sanhita, 2023, with the further condition that one of the bailors shall be the own/close family members of the petitioner.

(Harish Kumar, J)

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