

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35000 of 2024

Arising Out of PS. Case No.-248 Year-2023 Thana- BASOPATTI District- Madhubani

Vinay Kumar Yadav, Son of Rajendra Prasad Yadav, R/o Village-
Shahpurdih, P.S.- Kewati, Dist- Darbhanga

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Munish Kumar, Advocate
		Ms. Minakshi Kumari, Advocate
For the Opposite Party/s	:	Mrs. Rina Sinha, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 30-05-2024 Heard Mr. Munish Kumar, learned Advocate for the
petitioner and the learned APP for the State.

2. The petitioner is apprehending his arrest in connection with Basopatti P.S. Case No. 248 of 2023 registered for the offences punishable under Sections 272, 273 of the Indian Penal Code and Section 30 (a) of the Bihar Prohibition and Excise Act, 2016.

3. Allegedly in course of patrolling, the police intercepted some of the persons, who were coming from Nepal on motorcycle. However, noticing the police party, the persons succeeded in fleeing away after leaving the motorcycle. On search, total 12.705 litres of illicit liquor was recovered. One of the suspected person, who was apprehended, disclosed the name



of the petitioner, as owner of the motorcycle.

4. Learned Advocate for the petitioner contended that the name of the petitioner has been implicated in this case only on account of he being the owner of the motorcycle. There is no other material suggesting the complicity of the petitioner in the present crime as to whether he was driving the motorcycle when the police intercepted the motorcycle or he has any concern with the recovered illicit wine. Further submission has been made that there are infirmities in search and seizure, moreover, the witnesses are non-else, but the police personnel and, as such, in contravention of Section 100 of the Cr.P.C. It is lastly contended that the petitioner bears fair antecedent and he undertakes that he will fully cooperate in the investigation or in the proceeding of the court.

5. On the other hand, learned APP for the State opposes the bail application and submits that in any view of the matter anticipatory bail is not maintainable.

6. Regard being had to the submissions made on behalf of the parties and considering the fact that the name of the petitioner has been implicated in this case only on account of he being the owner of the motorcycle, however, no material has been collected during the course of investigation suggesting



the complicity of the petitioner and, as such, prima facie, Section 30(a) of the Bihar Prohibition and Excise Act does not find to be applicable, coupled with the fair antecedent, let the petitioner, named above, in the event of his arrest or surrender before the court below within four weeks from the date of receipt/production of a copy of this order, be released on bail on furnishing bail bonds of Rs.10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-II-cum-Special Judge, Excise Act, Madhubani in connection with Basopatti P.S. Case No. 248 of 2023, subject to the condition as laid down under Section 438 (2) of the Cr.P.C. with the further condition that one of the bailors shall be the own/close relative of the petitioner.

(Harish Kumar, J)

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