

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.39915 of 2018

Arising Out of PS. Case No.-23 Year-2018 Thana- MAHUA District- Vaishali

Mukesh Kumar Rai @ Mukesh Kumar son of Asharfi Roy resident of Village
- Nilkanthpur, P.S. Mahua, Dist: Vaishali. Petitioner/s

Versus

The State of Bihar. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Nityanand

For the Opposite Party/s : Mr. Sri Ram Bachan Singh

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

2 10-07-2018 Heard learned counsel for the petitioner and the

counsel appearing on behalf of the State.

Petitioner is in custody in connection with Mahua P.S.

Case No. 23 of 2018 for the offence under section 414/34 of the

Indian Penal Code and Section 30(A), 32(ii), 38(ii) & 41(i) of

Bihar Prohibition and Excise Act, 2016.

Learned counsel for the petitioner submits that

Section 414/34 of the Indian Penal Code is not attracted in the

instant case as there is no question of any theft of stolen

property. He further submits that the petitioner has no concern

with the vehicle carrying the liquor or the liquor. He was

arrested in the instant case only on suspicion that his

motorcycle was found at the place where the liquor was seized.

Learned counsel for the petitioner submits that

petitioner is in custody since 08.06.2018.

Learned counsel appearing on behalf of the State



vehemently opposed the prayer for bail. He submits that in the instant case huge quantity of liquor was seized and as such the petitioner does not deserve bail. However, he admits that Section 414/34 of the Indian Penal Code is not sustainable as there is no case of theft.

Learned counsel for the petitioner submits that nothing was recovered from the possession of the petitioner and he has no concern with the seized liquor.

In view of the above, the court is inclined to grant bail to the petitioner for the reason that bail is rule, jail is exception and unless there is exception in the case under trial, presumed to be innocence unless contrary is proved.

Under the aforesaid circumstances, let the petitioner, named above, be enlarged on bail after 23.07.2018 on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-II cum-Special Judge, Vaishali, Hajipur, in connection with Mahua P.S. Case No. 23 of 2018.

(Anil Kumar Upadhyay, J)

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