

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.15486 of 2019

Arising Out of PS. Case No.-7 Year-2019 Thana- RAJAOLI District- Nawada

SUBODH KUMAR Son of Krishna Kumar Yadav Resident of Village -
Jasauli Tola, P.S.- Motipur, Distt.- Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sanjay Kumar Singh

For the Opposite Party/s : Mr.Meena Singh

CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

3 02-04-2019 Heard learned counsel for the petitioner and learned
APP for the State.

Petitioner is languishing in judicial custody since
08.01.2019 in connection with Rajauli P.S. Case No. 07 of 2019,
corresponding to Special Case No. 28 of 2019 for offences
punishable under Sections 420/ 120-B/34 of the Indian Penal
Code and Section 30(a) & 41 of the Bihar Prohibition & Excise
Act, 2016.

The prosecution case, as lodged by the police
personnel, is that two trucks were intercepted and the driver and
Khalasi including the petitioner were apprehended. On search,
from the two trucks 3575 litres of Indian made foreign liquor
was recovered.

It has been submitted by the learned counsel for the



petitioner that he is innocent, for the same offence and for the same occurrence Rajauli P.S. Case No. 06 of 2019 has been lodged with regard to seizure of truck bearing No. HP 11 5713 which was also one of the trucks seized in the present case. He submits that petitioner could not be alleged to have been present in both the trucks so seized in the present case and although the petitioner was apprehended on 04.01.2019 he has been produced before the Magistrate on 06.01.2019 and not within 24 hours, which itself falsifies the prosecution story. He further submits that Rajauli P.S. Case No. 06 of 2019, which the petitioner has brought on record by way of supplementary affidavit, is also with regard to said occurrence on the same day with regard to one of the trucks seized by the police, hence, the petitioner cannot be subjected to double jeopardy for the same offence. It is also submitted that one of the co-accused with regard to the present case has already been granted the privilege of bail by a coordinate Bench of this court in Cr. Misc. No. 15295 of 2018 vide order dated 12.03.2019 and the illicit liquor did not belong to the petitioner.

However, learned APP for the State opposes the prayer for bail.

Considering the nature of allegations and the



materials on record and although for the same offence two FIRs have been lodged, petitioner having no criminal antecedent, let petitioner, above named, be enlarged on bail on furnishing bail bond of Rs.10,000/-(Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge (Excise), Nawada, in connection with Rajauli P.S. Case No. 07 of 2019, corresponding to Special Case No. 28 of 2019, subject to the condition that one of the bailors would be a close relative of the petitioner having sufficient immovable property, who will file an affidavit stating his relationship with the petitioner.

(Nilu Agrawal, J)

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