

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.84952 of 2019

Arising Out of PS. Case No.-336 Year-2019 Thana- MANJHI District- Saran

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Kamlesh Kumar @ Kamlesh Kumar Sah Son of Mohan Sah Resident of
Village - Chadwa @ Charwa, P.S.- Rasulpur, Distt.- Saran Chapra.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Alok Kumar Alok, Advocate
For the Opposite Party/s : Mr. Arun Kumar, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL ORDER

2 20-12-2019 Heard learned counsel for the parties.

Petitioner seeks bail in a case registered for the offence punishable under Sections 30, 30(a), 38(i)(ii) of Bihar Prohibition and Excise Act, 2016.

I have heard learned counsel for the petitioner and learned Additional Public Prosecutor for the State. I have also perused the relevant record of the case, necessary for adjudication of this petition.

Allegedly, 1425 liters of illicit liquor was recovered from a tanker, which fact is seriously disputed by the petitioner. Prima facie also it appears that thus far no case against the petitioner is made out indicating his complicity in the alleged crime. Recovery is from an area accessible to general public. Planting of the substance has not been ruled out by the



prosecution.

Prima facie, nothing is produced to highlight petitioner's direct involvement in the crime.

It is submitted by learned counsel for the petitioner that the petitioner has roots in the society: is not likely to interfere in the investigation or influence any of the witnesses or destroy the evidence; is behind bars since 12.10.2019; no further recovery is to be made from the petitioner nor any custodial interrogation is required and the petitioner has fully cooperated in the investigation.

Recovery was effected not from the vehicle in which the petitioner/bail applicant was sitting but from a tanker with which the petitioner has got no link. It is apprehension of the police that the petitioner was part of the convoy in which illicit contraband liquor was being taken but prima facie there is no material as on date to establish his complicity in the crime.

Keeping in view the provision of the special enactment i.e. Bihar Prohibition and Excise Act, 2016, this Court is of the considered view that petitioner has made out a case for grant of bail. Possibility of false implication as is so alleged by the petitioner cannot be ruled out. Also, thus far save and except for naming the petitioner in the F.I.R., no evidence



corroborative in nature stands recorded by the police. Also, none has come forward to highlight the possible involvement of the petitioner in the crime. On what basis the Investigating Officer could link the accused to the crime is also not emanating from the record.

Be that as it may, having regard to the entirety of the facts and circumstances of the case, let the petitioner, named above, be released on bail on furnishing bail bond of Rs.25,000/- (Twenty five thousand) with two sureties of like amount each to the satisfaction of learned 2nd Additional Sessions Judge-cum-Special Judge, Excise, Saran at Chapra in connection with Manjhi P.S. Case No. 336 of 2019.

(S. Kumar, J)

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