

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.23510 of 2020**

Arising Out of PS. Case No.-25 Year-2020 Thana- GAIGHAT District- Muzaffarpur

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KANHAIYA KUMAR @ KANHAY KUMAR Son of Vijay Chaudhary
Resident of Village - Patori, P.S.- Moro, District - Darbhanga.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner/s : Mr.Shiva Shankar Sharma, Advocate

For the Opposite Party/s : Mr.Humayou Ahmad Khan, APP

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 02-12-2020 Heard learned counsel for the petitioner and Mr.
Humayou Ahmad Khan, learned APP for the State.

The petitioner in the present case is seeking pre-arrest
bail in connection with Gaighat P.S. Case No. 25 of 2020
registered for the offences punishable under Sections 272, 273 of
the Indian Penal Code and 30(a) of Bihar Prohibition and Excise
Act.

Learned counsel for the petitioner submits that it is a
case in which petitioner has been falsely implicated and there is no
linkage of the petitioner in connection with this case. Learned
counsel submits that from the seizure list it will appear that the
illicit liquors were recovered from the two vehicles on 17.01.2020
at about 9:15 P.M. (morning) whereas the F.I.R. itself has been
registered on 17.01.2020 at about 9:20 P.M., therefore the manner
in which seizure list has been prepared is questionable.



Learned counsel further submits that this petitioner is a permanent resident of the district of Darbhanga whereas the alleged seizure has taken place within Gaighat Police Station at Patna. A statement has been made in paragraph '8' of the petition that petitioner is neither owner nor driver nor the occupant of the Pick-Up Van and as such he is no way connected with this case, nobody has identified him in the vehicle or nearby the vehicle.

Mr. Humayou Ahmad Khan, learned APP for the State has though opposed the prayer for anticipatory bail of the petitioner but on query made by this Court to find out and show from the case diary as to whether any independent witness who has identified this petitioner on the spot or any material has come connecting him with the vehicles in question or with the alleged liquor business, learned A.P.P. has informed this Court that no such material has come in the case diary.

Having regard to the facts and circumstances of the case, there being no prima-facie material to connect the petitioner at this stage, let the petitioner above-named in the event of his arrest or surrender within a period of four weeks from today in connection with Gaighat P.S. Case No. 25 of 2020 be released on bail on furnishing of bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, Excise Act, Muzaffarpur,



subject to the conditions as laid down under Section 438 (2) of the Cr.P.C. i.e.

(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;

(ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

(iii) a condition that the person shall not leave India without the previous permission of the Court.

And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner.

(Rajeev Ranjan Prasad, J)

Rajeev/-

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

