

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28345 of 2021**

Arising Out of PS. Case No.-791 Year-2020 Thana- HAJIPUR SADAR District- Vaishali

SAURAV KUMAR @ SAURABH KUMAR @ PALTU Son of Sri Vinod Choudhary @ Munna Choudhary @ Vinod Chaudhary Resident of Village- Daulatpur Deoria, P.S.- Hajipur Sadar, District- Vaishali.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ganga Prasad Bimal, Advocate

For the Opposite Party/s : Mr.Pramod Kumar Pandey, APP

CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL ORDER

3 21-10-2021 Heard learned counsel for the petitioner and learned counsel for the State.

Petitioner apprehends his arrest in a case registered under Section 415 of the Indian Penal Code and Sections 30(a), 34, 41 (1) of the Bihar Prohibition & Excise Act.

Informant who is a police officer, has alleged in his written complaint that on 29.11.2020 at about 2:20 AM while he was on patrolling, he received information from the officer-in-charge of police station that Saurav Kumar @ Paltu has brought illicit liquor loaded on a 10 wheeled truck which is being unloaded in village Daulatpur by his 20-25 associates on Scorpio and a pick up van to be dispatched at various places and on receiving said information, he raided said place at 2:45 AM

alongwith other police personnel and found one scorpio vehicle, one pick up vehicle and one 10 wheeled truck standing there and 20-25 persons were found unloading illicit liquor from said truck on scorpio and pick up van and on seeing the police, they started fleeing away, however, three persons were arrested, who disclosed their names as Vishwajit Kumar, Anik Jaishwal and Ram Kumar Singh and further disclosed the names of 10 persons and few unknown persons, who managed to flee away taking advantage of darkness and from said three vehicles, huge amount of illicit liquor was recovered and were seized by the police.

It has been submitted on behalf of petitioner that he is innocent and has been falsely implicated in this case on the basis of police high handedness and at the instance of persons inimical to petitioner which is apparent from the contents of FIR itself. He is accused in only one case as disclosed in para-3 of this petition instituted under Section 414 of I.P.C. and Section 30(a) of the Excise Act in which he has been granted bail and except said case he is not accused in any other case.

Name of petitioner and 20-22 known and unknown persons has transpired in this case only on the basis of disclosure and confession made by apprehended accused, who

are alleged to have fled away on seeing the police, except said disclosure, there is no any other incriminating material against petitioner. Nothing has been recovered from possession or from the house of petitioner. Petitioner has no concerned with the three vehicles seized by the police and illicit liquor recovered from said vehicles and there is no material to connect petitioner with said search and seizure, as such, no offence under Excise Act is made out against the petitioner.

It has been further submitted that similarly placed co-accused, namely, Abhishek Kumar has already been granted anticipatory bail by a co-ordinate Bench of this Court as contained in Annexure-3.

Considering the facts and circumstances of the case, prayer of anticipatory bail is allowed and petitioner named above in the event of arrest or surrender before the court below within four weeks from today, Petitioner is directed to be released on bail on furnishing bail bonds of Rs. 20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-II-cum Excise Court, Vaishali at Hajipur, in connection with Hajipur Sadar P.S. Case No. 791 of 2020 subject to the conditions as laid down under Section 438(2) of the Code of

Criminal Procedure with following conditions:-

(1) Bailors should be local having sufficient immovable property within the jurisdiction of the court concerned.

(2) Petitioner shall co-operate in the investigation and trial and shall be represented during trial on each and every date fixed by the court.

(3) If the petitioner does not co-operate in investigation or tampers with the evidence or the witnesses of the case, in that case, prosecution will be at liberty to move for cancellation of bail of the petitioner.

(4) If the petitioner is found involved in similar nature of offences, after his release on bail the trial court shall take steps to cancel his bail bond.

(5) Petitioner shall mark his attendance in the concerned police station once in a week on the day and time as fixed by the officer-in-charge of the concerned police station.

(S. Kumar, J)

Rajiv/veena-

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