

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.8801 of 2021**

Arising Out of PS. Case No.-79 Year-2020 Thana- MAHUA District- Vaishali

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KAPIL DEO RAI Son of Late Lala Rai Resident of Village- Rajapakar Purvi
Tola, P.S.- Rajapakar, District- Vaishali. Petitioner

Versus

The State of Bihar Opposite Party

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Appearance :

For the Petitioner/s : Ms.Bela Singh, Advocate.
For the Opposite Party/s : Mr. Amitesh Kumar, APP.

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**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

2 03-05-2021 Learned counsel for the petitioner undertakes to remove all the defects pointed out by the Stamp Reporter within four weeks after start of normal functioning of the Court.

Heard learned counsel for the petitioner and Mr. Amitesh Kumar, learned APP for the State.

The petitioner in the present case is seeking regular bail in connection with Mahua P.S. Case No. 79 of 2020 registered for the offences punishable under Sections 30(a), 32(I), 34(II), 38(II), 41(I) of Bihar Prohibition and Excise Act, 2018.

Learned counsel for the petitioner submits that as per the prosecution story, on 13.2.2020 at about 10.30 pm when the informant on patrolling duty, he received a secret information that illicit liquor is being unloaded from the truck and are being loaded in small pick-up van at Manpura Paharpur. On receiving the said information he along with police party reached at the given place and on seeing the police, the driver Chandan Kumar of the pick up van bearing registration No. BR31GB 4006 tried to flee away but on chase got apprehended. On



search of the said vehicle 3603.03 liters of illicit foreign liquor was recovered.

Learned counsel submits that the petitioner is innocent and has falsely been implicated in the present case. It is submitted that petitioner is the owner of the vehicle but he was not present at the time when the vehicle had intercepted the vehicle and illicit liquors were recovered. It is further submitted that the driver Chandan Kumar has already been granted bail by learned coordinate Bench of this Court in Cr. Misc. No. 22836 of 2020. The petitioner is in custody since 19.10.2020 having no criminal antecedent.

Learned APP for the State has opposed the prayer for regular bail of the petitioner.

Considering the facts and circumstances of the case wherein the petitioner is said to be the owner of the vehicle but he was not present at the time when the vehicle was intercepted and liquors were recovered, the driver Chandan Kumar has already been granted bail by learned coordinate Bench of this Court in Cr. Misc. No. 22836 of 2020, the petitioner is in jail in connection with the present case since 19.10.2020, investigation against him is complete and prior to the present case he had no criminal antecedent, this Court directs release of the petitioner above named on bail on furnishing of bail bonds of Rs.25,000/- (Rupees Twenty Five Thousand Only) with two sureties of the like amount each to the satisfaction of learned Court of 2nd Additional Sessions Judge-cum-Special Judge (Excise), Vaishali in connection with Mahua P.S. Case No. 79 of 2020, subject to the



conditions as laid down under Section 437(3) Cr.P.C. as under:

(a) that such person shall attend in accordance with the conditions of the bond executed under this Chapter,

(b) that such person shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which is suspected, and

(c) that such persons shall not directly or indirectly make and 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 or tamper with the evidence.

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. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

The application stands allowed.

(Rajeev Ranjan Prasad, J)

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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'.

