

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5174 of 2022

Arising Out of PS. Case No.-262 Year-2021 Thana- GOVERNMENT OFFICIAL COMP.
District- East Champaran

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Balmiki Prasad Son Of Late Ram Chandra Prasad R/O - Opposite 4 H/21,
Bahadurpur Housing Colony, P.S.- Agamkuan, District- Patna, Bihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Prabhat Ranjan
For the Opposite Party/s : Mr.Tapeshwar Sharma, APP

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 11-02-2022 Due to the third wave of COVID-19 Pandemic, the matter
is being taken up by way of virtual Court proceeding.

The matter has been listed under the heading “For Orders”
under the orders of Hon’ble the Chief Justice.

Learned counsel for the petitioner is directed to remove
the defect(s), as pointed out by the office, within a period of four
weeks after restoration of normalcy.

Heard learned counsel for the petitioner and the State
through virtual mode.

Learned counsel for the petitioner submits that
inadvertently, in the prayer portion of the petition, the name of the
court, where the case is pending, has been left to be typed.

Accordingly, in the prayer portion of the petition, after
“*Excise Case No. 262 of 2021*”, to the satisfaction of “*learned*



Additional Sessions Judge-II-cum-Special Judge, Excise Act, Motihari, East Champaran”, be treated to be inserted.

The petitioner is apprehending his arrest in connection with Excise Case No. 262 of 2021 registered for the offence under Sections-30(a), 32, 38 & 41(1) of the Bihar Prohibition and Excise Amendment Act, 2018.

The prosecution case, in short, is that 1634.04 liters wine along with other goods is recovered.

It has been submitted on behalf of the petitioner that the petitioner has got no criminal antecedent. There is no allegation of tampering of witnesses alleged against the petitioner. The petitioner has been falsely implicated in the present case. It is alleged that 1634.04 litres wine along with other goods is recovered from a truck. The truck, in question does not belong to the petitioner. The agent of the company of the petitioner is said to have dispatched other goods. The petitioner had no knowledge regarding the nature of goods, booked by the transporter. Nothing incriminating has been recovered from the conscious possession of the petitioner. There is no compliance of Section 100 Cr.P.C.

On behalf of the State, it is submitted that the petitioner is named in the F.I.R.

It is necessary to indicate here that this Court while considering the prayer made in the present anticipatory bail application has taken note of the exponential rise in number of covid



cases due to outbreak of third wave of Covid-19 pandemic. Further this Court can also not lose sight of the fact that the condition of jails is not conducive and suitable to the present situation which has arisen due to the sudden rise in covid cases.

Considering the aforesaid facts and circumstances of the case, the petitioner, above named, in the event of arrest or surrender before the learned court below within a period of twelve weeks from today, be released on anticipatory bail on his personal bond to the satisfaction of learned Additional Sessions Judge-II-cum-Special Judge, Excise Act, Motihari, East Champaran in connection with Excise Case No. 262 of 2021 subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

Once the normalcy is restored, the petitioner shall furnish bail bonds of Rs. 10,000/- (Rupees ten thousand) with two sureties of the like amount each within a period of eight weeks to the satisfaction of the court concerned in connection with the aforesaid case.

(Sudhir Singh, J)

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