

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26676 of 2022

Arising Out of PS. Case No.-101 Year-2022 Thana- MADANPUR District- Aurangabad

Kapil Yadav, Son of Vijay Kumar Yadav @ Vijay Yadav, R/O- Karma Masood
Chaubara, P.S.- Rafiganj, District- Aurangabad (BIHAR)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Bhaskar Shankar, Advocate

For the Opposite Party/s : Mr. Ajay Kumar Jha, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 16-08-2022 Heard learned counsel for the petitioner and learned
APP for the State.

Let the defect (s), as pointed out by the office, be removed within a period of four weeks from the date of resumption of physical filing and physical removal of defect.

In the present case, the petitioner seeks bail in connection with Madanpur P.S. Case No. 101 of 2022 registered for the alleged offences under Sections 420, 467, 468, 471, 413, 414 and 120(B) of the Indian Penal Code and Section 30(a) of the Bihar Prohibition and Excise Act.

As per prosecution case, police received secret information about petitioner bringing foreign liquor in a pick-up vehicle, checking of vehicles was stated and a vehicle was intercepted and two persons tried to escape from the vehicle and



one of them was apprehended. On checking of the vehicle, 1068 litres of Beer was recovered. The apprehended person Sumit Kumar disclosed the name of the petitioner who fled away from the spot.

The learned counsel for the petitioner submits that petitioner was not apprehended from the spot and nothing incriminating has been recovered from his conscious possession. He is not the owner of the vehicle and has got no concern with the co-accused Sumit kumar who allegedly named this petitioner. There is no compliance of Section 100 of the Cr.P.C. The petitioner has been named merely on suspicion as FIR shows police was having his name as suspect on the basis of secret information and the co-accused driver comes from his State of Jharkhand and cannot be said to be acquainted with this petitioner. The petitioner is in custody since 07.04.2022 and charge-sheet has been submitted in this case. Co-accused Sumit Kumar, who was apprehended from the spot, has been granted bail by a Co-ordinate Bench of this Court by vide order dated 06.08.2022 passed in Cr. Misc. No. 26223 of 2022.

Learned APP opposes the prayer for bail submitting that the petitioner is a habitual offender and four cases are pending against him.



Having regard to the submissions made hereinabove and considering the fact that petitioner was not apprehended from the spot and no recovery has been shown to him coupled with the fact that charge-sheet has been submitted and co-accused, who was apprehended from the spot, has been granted bail by a Co-ordinate Bench, the petitioner above named is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, Excise-1st, Aurangabad in connection with Madanpur P.S. Case No. 101 of 2022, subject to the condition mentioned in Section 437(3) of the Cr.P.C. and other the following conditions:

- (i) The bail bond of the petitioner will be accepted only after framing of charge, if not already framed.
- (ii) One of the bailors will be Vijay Kumar Yadav, father of the petitioner, who has sworn the affidavit.
- (iii) The petitioner will remain present on each and every date fixed by the court below.
- (iv) In case of absence on three consecutive dates



or in violation of the terms of the bail, the bail
bond of the petitioner will be liable to be
cancelled by the court concerned.

(Arun Kumar Jha, J)

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