

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55146 of 2022

Arising Out of PS. Case No.-48 Year-2022 Thana- PANJWARA District- Banka

=====

Avinash Kumar S/o Amar Choudhary @ Yadav, Resident of village-
Madhepura, P.S. and District- Madhepura.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr.Suman Kumar Jha, Advocate.

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

=====

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 16-12-2022 Heard Mr. Suman Kumar Jha, learned counsel
appearing on behalf of the petitioner and Mr. Shailendra Kumar,
learned A.P.P. for the State, in virtual Court.

The petitioner seeks regular bail in connection with
Panjwara P.S. Case No. 48 of 2022 for the offence punishable
under Sections 420, 467 and 468/34 of the Indian Penal Code.

The prosecution story, in brief, is that the petitioner
along with a stolen vehicle XUV 500 bearing Registration No.
BR01PB6450 was arrested, allegedly to have engaged in
business of illicit liquor which was found in the said vehicle.

Learned counsel appearing on behalf of the petitioner
submitted that the petitioner had to go to Baijnathpur from
Deoghar and for that he took lift on the vehicle and the
petitioner was unaware of the fact that the said vehicle was
stolen one and it was also carrying illicit liquor. Petitioner is



innocent, however, he was earlier involved in one case bearing Panjwara P.S. Case No. 104 of 2021 under Sections 30(a) and 32(2) of the Bihar Prohibition and Excise Act, 2018 and the present case also arises out of the said case. He further submitted that the owner of the vehicle was verified on the basis of Engine number and chassis number from the District Transport Office, Banka and it was reported that the owner of the said vehicle is one Vivek Kumar. He further submitted that the said Vivek Kumar has not lodged any F.I.R. regarding theft of his XUV 500 vehicle regarding which allegation against the petitioner along with other co-accused is that they had tampered the number plate of the said vehicle for transportation of illicit liquor by displaying Registration No. BR-01-PB-6450. The petitioner is in custody since 10.05.2022 and charge sheet has already been submitted.

Learned A.P.P. for the State has vehemently opposed the prayer for grant of bail to the petitioner. Specific submission has been made by him that trade of illicit liquor is rampant in the State of Bihar and recently several hooch deaths have occurred. In the present case, petitioner was arrested along with a vehicle using fake registration number for transportation of illicit liquor. Hence, the petitioner doesn't deserve to be released



on bail.

Considering the specific allegation against the petitioner and co-accused that they were carrying illicit liquor on the said vehicle, a separate case bearing Panjwara P.S. Case No. 104 of 2021 was lodged under Sections 30(a) and 32(2) of the Bihar Prohibition and Excise Act against the petitioner in which he has already been released on bail vide order dated 23.05.2022 passed in Cr. Misc. No. 4677 of 2022. No doubt smugglers and Mafia involved in illicit trade of liquor use fake registration number for transportation of illicit liquor and in the present case it appears that the liquor was carried on the vehicle by using fake registration number. However, in course of investigation owner of the XUV 500 vehicle has been found to be Vivek Kumar and in absence of any F.I.R. regarding theft of the aforesaid vehicle, his complicity in the offence cannot be ruled out. The court below is directed to verify the fact that as to whether owner of the said vehicle namely Vivek Kumar has lodged any F.I.R. regarding theft of his vehicle or not. In case, no such F.I.R. is lodged, prima facie, it appears that the petitioner can only said to be working on behalf of Mafia and the real smugglers have been let scot free.

If the court below after verifying from the records



comes to the finding that no F.I.R. for theft of the aforesaid has been registered, petitioner, above named, is directed to be released on bail on furnishing bail bond of Rs.25,000/- (Rupees twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned Cheif Judicial Magistrate, Banka in connection with Panjwara P.S. Case No. 48 of 2022, subject to the 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 trial and shall be properly represented on each and every date fixed by the Court.

(3) If the petitioner 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 offence, after his release on bail, the trial Court shall take steps to cancel his bail bonds.

At this stage, learned counsel for the petitioner submitted that since the records of the case is available with the court below, time may be specified for verification of the F.I.R. lodged regarding theft of the vehicle by the owner of the vehicle



namely Vivek Kumar. This Court finds that the above exercise may be positively carried out within a period of 15 days from the date of receipt/communication of this order.

Accordingly, the bail application stands disposed of.

(Purnendu Singh, J)

mantreshwar/-

U		T	
---	--	---	--

