

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.17 of 2022

Arising Out of PS. Case No.-278 Year-2021 Thana- MAHNAR District- Vaishali

JAY PRAKASH GUPTA, aged about 43 years, Male, Son of Suresh Sah
Resident of Village - Hasanpur Surat , P.S.- Patori, Distt.- Samastipur.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner : Mr. Sunil Kumar Singh, Advocate
For the Opposite Party : Mr. Khurshid Anwar, A.P.P.

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.

Heard learned counsel for the petitioner and learned
A.P.P. for the State through Virtual mode.

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

The petitioner is apprehending his arrest in connection
with Mahnar P.S. Case No. 278 of 2021, for the offence
registered under Sections 413, 414, 271, 272/34 of the I.P.C. and
30(a) of the Bihar Prohibition and Excise (Amendment) Act,
2018.

The prosecution story, in brief, is that total 1726.005



liters wine is recovered from the *Bathan* and *Pick-up Van* which was standing in front of the *Bathan* of co-accused Anjan Singh.

It has been submitted by learned counsel for the petitioner that the petitioner has got no criminal antecedent. He has falsely been implicated in the present case. There is no allegation of tampering with the witnesses alleged against the petitioner. It is alleged that 594 liters wine is recovered from the *Bathan* and 1132.005 liters wine is recovered from the *Pick up Van* which was standing in front of the *Bathan* of co-accused Anjan Singh. The petitioner is alleged to be the owner of the said *Pick-up Van* in question. The said *Pick-up Van* is run as a public carrier. Except for this, there is no other substantive evidence to suggest the implication of the petitioner in this case. Nothing incriminating has been recovered from the conscious possession of the petitioner. The petitioner had no knowledge regarding the nature of goods booked by the Transporter. 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/ Complaint Case.

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, the petitioner, above named, in the event of arrest/surrender before the learned court below within a period of twelve weeks from today, be released on anticipatory bail on his personal bonds to the satisfaction of the learned Additional Sessions Judge-II-cum-Excise Court, Vaishali at Hajipur, in connection with Mahnar P.S. Case No. 278 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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