**IN THE HIGH COURT OF JUDICATURE AT PATNA**
**CRIMINAL MISCELLANEOUS No.1557 of 2022**

Arising Out of PS. Case No.-33 Year-2021 Thana- NADI P.S. District- Patna

======================================================

Raju Rai, S/O Sri Aash Narayan Rai R/V- Mirampur, Ward No.2, P.S.- Raghopur, Distt.- Vaishali.

... ... Petitioner/s

Versus

1. The State Of Bihar
2. The Enforcement Directorate through Joint Director Bihar
3. The Director General of Income Tax (Investigation), Bihar, Patna. Bihar

... ... Opposite Party/s

======================================================

**Appearance :**

| | | |
|---|---|---|
| For the Petitioner/s | : | Mr. Vijay Kumar Sinha |
| For the State | : | Mr. Humayou Ahmad Khan |
| For the Income Tax | : | Ms. Archana Sinha Shahi |
| For the E.D. | : | Mr. Manoj Kumar Singh |

======================================================

**CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA**

ORAL ORDER

8 22-07-2022 Heard learned counsel for the petitioner, learned APP for the State, learned counsel for the Income Tax Department and the learned counsel for the Enforcement Directorate.

The petitioner seeks bail in anticipation of his arrest in a case registered for the offences punishable under Sections 420, 467, 468, 471 and 34 of the Indian Penal Code and Sections 30(a), 36 and 41(1) of the Excise Act, 2016.

The learned counsel for the petitioner submits that the petitioner is a person with clean antecedent and the allegation is of recovery of 4412.220 litre of liquor from a truck.

The learned counsel for the petitioner submits that petitioner was not apprehended from the spot, as such, nothing was recovered from his conscious possession. It is next submitted that the petitioner is neither the owner of the truck, nor the driver of the truck and his name transpired in the confessional statement of co-accused Jitendra Vishwakarma, which has no evidentiary value.

The learned counsel next submits that the Directorate of Enforcement and Income Tax were made party by order dated 21.02.2022 passed by the Hon'ble Predecessor Bench.

The learned counsel for the petitioner submits that though the learned A.P.P. and the learned counsel for the Enforcement Directorate and Income Tax have vehemently opposed the anticipatory bail application of the petitioner on the ground that huge quantity of liquor has been apprehended and the petitioner's name has transpired in the confessional statement of co-accused and further submitted that accused like the petitioner are amassing wealth and creating properties in other states, but they are not able to meet the submission that the petitioner was not apprehended from the spot, as such, nothing was recovered from his conscious possession and thus, bar of Section 76(2) of the Excise Act will not be attracted and further that confession made before police is not admissible in evidence.

The learned counsel for the petitioner submits that no doubt, people who are indulging in illegal liquor trade are amassing wealth, but then, who is responsible for the same, obviously the police as they are not being able to effectively control the trade and at times in order to save real culprits are falsely implicating innocent citizen like the petitioner by roping them as accused based on confessional statement.

The learned counsel next submits that liquor cases have over flooded the jails in Bihar which is having the effect of violating the basic human rights of the accused as they are having issues of spare. The learned counsel next submits that even minors and young boys in the age group of 18-25 are indulging with impunity in illegal liquor trade as they see prospect of earning. The learned counsel for the petitioner philosophically submits that had the government taken health and education as seriously as liquor, then perhaps the need of this law may not have arisen, because an educated mind has the capacity to decipher what is wrong and what is right and definitely drinking liquor by no stretch of imagination can be said to be right.

The learned A.P.P., the learned counsel for the Enforcement Directorate as well as the learned counsel for the

Income Tax submits that no doubt, the petitioner was not apprehended from spot, but his name transpired in confessional statement of co-accused.

Be that as it may, considering the fact that the petitioner was not apprehended from the spot, as such, nothing was recovered from his conscious possession and confessional statement has no evidentiary value, until the same leads to some corroboration, the petitioner, above-named, in the event of his arrest or surrender before the learned Court below within a period of six weeks from today, is directed to be released on bail on his furnishing bail-bonds in the sum of Rs. 5,000/- (Rupees Five Thousand) with two sureties of the like amount each to the satisfaction of learned Court below where the case is pending in connection with Special Case No.1478 of 2021 arising out of Nadi P. S. Case No.33 of 2021, subject to the conditions laid down under Section 438(2) of the Cr.P.C.

The application stands allowed.

**(Satyavrat Verma, J)**

vikash/-

| | | | |
|---|---|---|---|
| **U** | | T | |