

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.6175 of 2023

Arising Out of PS. Case No.-99 Year-2022 Thana- KANTI District- Muzaffarpur

DIWAKAR KUMAR @ KALLU, (Male), aged about 20 years, Son of Rajesh Pandit, R/O Vill.- Manikpur Chowk (Beside HERO Agency), P.S.- Saraiya, District - Muzaffarpur.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner : Mr. Alok Kumar Alok, Advocate
For the Opposite Party : Mr. Tapeswar Sharma, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 03-05-2023 Heard learned counsel for the petitioner and
learned A.P.P. for the State.

The petitioner is apprehending his arrest in connection with Kanti P.S. Case No. 99 of 2022 for the offence registered under Sections 399, 402, 414 of the I.P.C., Sections 25(1-b)a, 26, 35 of the Arms Act and Section 30(a) of the Bihar Prohibition and Excise Act, 2016-18.

The prosecution story, in brief, is that total 1.08 liters wine is said to have been recovered from possession of co-accused Md. Anwar @ Mithu and one country made loaded pistol alongwith one live cartridge is said to have



been recovered from possession of co-accused Raja Kumar @ Raja Yadav.

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 total 1.08 liters wine is said to have been recovered from possession of Md. Anwar @ Mithu and one country made loaded pistol alongwith one live cartridge is said to have been recovered from the possession of co-accused, Raja Kumar @ Raja Yadav. The petitioner is named in the F.I.R. The name of the petitioner has transpired in the present case on the basis of confessional statement of the co-accused. 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 alleged incident. There is no compliance of Section 100 Cr. P.C. Learned counsel for the petitioner has placed reliance upon the order dated



13.04.2022 passed by the Hon'ble Supreme Court in *Criminal Appeal No. 626 of 2022, arising out of SLP (Crl.) No. 3005 of 2022 (Sweta Kumari-Versus-The State of Bihar).*

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

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 furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand Only) with two sureties of the like amount each to the satisfaction of the learned Special Judge (Excise), Court No.-II, Muzaffarpur, in connection with Kanti P.S. Case No. 99 of 2022, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Sudhir Singh, J)

U.K./-

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

