

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.7897 of 2023

Arising Out of PS. Case No.-157 Year-2022 Thana- KIUL District- Lakhisarai

1. Dhiraj Kumar, (M), aged about 25 years, Son Of Kamal Kishore Yadav @ Kamal Kishor Prasad, R/O Vill.- Lakhochak, P.S.- Kiul, Distt.- Lakhisarai.
2. Supin Kumar, (M), aged about 24 years, Son Of Subelal Yadav, R/O Vill.- Lakhochak, P.S.- Kiul, Distt.- Lakhisarai.

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioners : Mr. Sanjeev Kumar, Advocate
For the Opposite Party : Mr. Manoj Kumar, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 29-04-2023 Learned counsel for the petitioners seeks permission to withdraw the present anticipatory bail application filed on behalf of petitioner no. 1, namely, Dhiraj Kumar, as he has been taken into judicial custody in connection with Kiul P.S. Case No. 157 of 2022, pending in the court of learned Additional Sessions Judge-V-cum-Exclusive Special Court-II, Excise Act, Lakhisarai.

Permission is accorded.

Accordingly, the anticipatory bail application filed on behalf of petitioner no. 1, namely, Dhiraj



Kumar, is dismissed as withdrawn.

Heard learned counsel for the petitioner no. 2
and learned A.P.P. for the State.

The petitioner no. 2 is apprehending his arrest
in connection with Kiul P.S. Case No. 157 of 2022 for
the offence registered under Section 30(a) of the Bihar
Prohibition and Excise (Amendment) Act, 2018.

The prosecution story, in brief, is that total 132
liters wine is said to have been recovered from the
Motorcycle in question.

It has been submitted by learned counsel for
the petitioner no. 2 that he has falsely been implicated in
the present case. There is no allegation of tampering
with the witnesses alleged against him. It is alleged that
total 132 liters wine is recovered from the Motorcycle in
question. The Motorcycle in question does not belong to
him. He is named in the F.I.R. His name 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 his implication in



this case. Nothing incriminating has been recovered from his conscious possession. He had no knowledge regarding the alleged incident. There is no compliance of Section 100 Cr. P.C. Learned counsel for the petitioner no. 2 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 no. 2 is named in the F.I.R/ Complaint Case.

Considering the aforesaid facts and circumstances, the petitioner no. 2, namely, Supin Kumar (except petitioner no. 1, namely, Dhiraj Kumar), 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 Additional Sessions Judge-V-cum-Exclusive



Special Court II, Excise Act, Lakhisarai, in connection with Kiul P.S. Case No. 157 of 2022, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Sudhir Singh, J)

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