

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8560 of 2023

Arising Out of PS. Case No.-364 Year-2021 Thana- PARSA District- Saran

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Bhavnath Rai, (Male), aged about 40 years, Son of Late Kailash Rai, R/O
Village- Kuchaw, P.S.- Garkha, District- Saran.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner : Mr. Sanjay Kumar Singh, Advocate

For the Opposite Party : Mr. Md. Anbzarul Haque Sahara, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

3 10-05-2023 As per earlier order dated 18.04.2023, passed by another Co-ordinate Bench of this Court to certain points, the instruction was to be sought for by learned counsel for the petitioner. The instruction which has been received by learned counsel for the petitioner is that he is not in a position to comply with the earlier order dated 18.04.2023 passed by another Co-ordinate Bench of this Court.

Heard learned counsel for the petitioner and learned A.P.P. for the State.

The petitioner is apprehending his arrest in connection with Parsa P.S. Case No. 364 of 2021 for the offence registered under Sections 30(a), 36 and 41(i) of the Bihar Prohibition and Excise Act.



The prosecution story, in brief, is that total 2975.04 liters wine is said to have been recovered from the Truck in question.

It has been submitted by learned counsel for the petitioner that the petitioner 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 2975.04 liters wine is recovered from the Truck in question. The Truck in question does not belong to the petitioner. The petitioner is named in the F.I.R. The name of the petitioner has transpired in the present case on the basis of secret information as per F.I.R. The source and genuineness of secret information has not been disclosed by the prosecution. 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 Court below/concerned Court, in connection with Parsa P.S. Case No. 364 of 2021, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Sudhir Singh, J)

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