

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.14245 of 2022**

Arising Out of PS. Case No.-211 Year-2021 Thana- DEHRI TOWN District- Rohtas

MAHESH KUMAR Son of Mahendra Singh Resident of Village and P.O.-  
Lakh, P.S.- Muffasil, District- Begusarai- 851129 (Bihar). Presently residing  
at Ram Nagar Colony, Behind Bijli Office, P.S. and District- Dhanbad  
(Jharkhand),

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr. Y.V. Giri, Sr. Adv.  
Mr. Pranav Kumar. Adv.  
For the Opposite Party/s : Mr. Abhay Kumar. APP

**CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN**  
**CAV ORDER**

8      11-10-2023                      Heard Mr. Y.V. Giri, learned Senior Counsel assisted  
by Mr. Pranav Kumar for the petitioner and learned A.P.P. for  
the State.

2. The petitioner apprehends his arrest in Dehri Nagar  
P.S. Case No. 211 of 2021 registered for the offences punishable  
under Sections 119, 120(B), 193, 195, 420, 467, 468, 469, 471  
of the Indian Penal Code pending in the Court of learned Chief  
Judicial Magistrate, Rohtas at Sasaram.

3. The prosecution case, in brief, is that on  
05.01.2019 on the basis of petition of A.S.I. Devi Singh, Dehri  
(T) P.S. Case No. 10/19 was registered U/Ss- 30(a), 38(1)(i),  
4(1)(ii) of Bihar Excise Act against accused Prince Kumar and



unknown persons. During supervision and report-II, case found true against Prince Kumar and unknown person. Thereafter, on 03.03.2021, during supervision by D.I.G, Shahabad range, it has also found the case true against one Janeshwar Singh and directed further investigation on some points including involvement of the petitioner, the then Police Inspector-cum-S.H.O. and also directed to lodge an F.I.R. Thereafter, in the light of Memo No. 831 dated 31.03.2021 of D.I.G, Shahabad range and Memo No. 2792 dated 01.04.2021 of S.P., Rohtas, it came into light that the petitioner put wrong entries in the Station diary regarding the date of lodging the FIR and with malafide intention falsely implicated one Pince Kumar and has not made accused Janeshwar Singh who was the owner of the premises and also in the light of Sanha no. 96 dated 04.01.2019 at 19.30 the said Janeshwar Singh gave information on phone that illegal wine has kept in his old crusher machine and on verification of said information, A.S.I. Devi Singh along with other police personnel raided the said place but the petitioner has not mentioned said information in Sanha. It is further alleged that during course of investigation, it come in light from entry in case diary on dated 05.01.2019 that arrival at 9:30 on 05.01.2019 mentioned in case diary, on which basis



case no. 10 /19 dated 05.01.2019 was lodged under the aforesaid sections of Excise Act but which has not been mentioned in column of seizure-list. It is further alleged that on the alleged date and time of recovery of wine, Janeshwar Singh was an accused in Dehri P.S. Case No. 607/17 dated 16.08.2017 U/S-379/34 of the I.P.C. and 40(1) Bihar Mining Act and 33,41,42 Forest Act and also present at the place of occurrence, but he was not arrested by the petitioner which creates serious doubts. It also came during inspection that at the time of recovery of wine, the petitioner was present at the P.O, but the seizure-list was not prepared by him and was prepared by a junior A.S.I. Devi Singh with intent to modify accordance to him. It is further alleged that with intent to save Janeshwar Singh, the petitioner falsely implicated one Prince Kumar in the case despite the fact that he was an innocent person.

4. Learned Senior Counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in this case and the petitioner has no criminal antecedent. The allegation levelled against the petitioner is not specific rather general and omnibus in nature. He further submits that during the course of the investigation, none of the witnesses have stated that the petitioner has made overwriting



in the FIR or has forced A.S.I. Devi Singh for registering a false case against Prince Kumar or sparing the original accused. Further in the FIR itself, it has been stated that the case has been found to be true against Prince Kumar who has been made accused in Dehri Nagar P.S. Case No. 10/2019, the Dehri Nagar P.S. Case No. 10/2019 was brought on record by way of supplementary affidavit. He further stated that the present case has been registered against the petitioner on the direction of the DIG Shahabad Range and on the basis of the complaint by ASI Devi Singh who is informant in Dehri Nagar P.S. Case No. 10/2019 stating therein that overwriting has been made by the then officer in-charge (petitioner) and one Prince Kumar has been falsely implicated. It is submitted that the allegation of falsely implicating Prince Kumar is incorrect, in fact, in the FIR itself it has been stated that the case has been found to be true against Prince Kumar in the investigation. Therefore, the allegation of false implication of Prince Kumar by the petitioner is not made out.

5. Learned Senior Counsel for the petitioner further submits that with respect to allegation of overwriting in the FIR that the date has been changed from 04.01.2019 to 05.01.2019 and the signature of the officer in-charge



(petitioner) on the application has been changed from 04.01.2019 to 05.01.2019 by the petitioner is not correct. In fact, the application has been written by the A.S.I. Devi Singh who is the informant of the case, and the petitioner has only put his signature and, thereafter, the FIR has been registered in the police station and the petitioner has no concern as to how the overwriting has been done in the FIR. The petitioner has been implicated under a conspiracy by the other police personnel of the police station because the petitioner was not allowing to carry out any illegal activities in the police station, being aggrieved by the this he has been implicated in connivance with other police personnel.

6. Learned Senior Counsel for the petitioner further submits that it is very surprising that the informant A.S.I. Devi Singh being a literate person submitted application before the petitioner for registering the F.I.R. in his handwriting and did not raise any protest on the overwriting in the F.I.R. and allowed it to be registered is suspicious on part of the A.S.I Devi Singh. In fact, the ASI Devi Singh in connivance with Janeshwar Singh has written the application submitted before the petitioner, which was signed by the petitioner only, and thereafter, the manipulations/overwriting was done by the A.S.I. Devi Singh



with an intention to implicate the petitioner.

7. Learned Senior Counsel for the petitioner further submits that during the course of investigation, none of the witnesses have stated specifically that overwriting has been done by the petitioner in order to spare Janeshwar Singh and has falsely implicated Prince Kumar in the case except A.S.I Devi Singh. In the investigation nothing has come against the petitioner of his involvement in the manipulation of the FIR. He further submits that with regard to the allegation that the mobile number of Janeshwar Singh in Sanha No. 96 has not been mentioned is not relevant for the reason that the identity has already been disclosed in the Sanha and merely not indicating the mobile number does not have any relevance as the petitioner has immediately mentioned in Sanha no. 96 about the information of illegal liquor and issued necessary direction to A.S.I. Devi Singh for proceeding towards the place of occurrence. He further submits that in the supervision report of SDPO dated 14.04.2019 of Dehri Nagar P.S. No. 10/2019, nowhere it has been indicated or said that the petitioner was present at the place of occurrence when the raid was conducted, and the illegal liquor was recovered. Neither the informant nor any other witness has mentioned the presence of the petitioner at



the place of occurrence. This fact also certifies the fact that the petitioner was not present at the place of occurrence, and he has been falsely implicated by ASI Devi Singh with some ulterior motive, and to cover his own involvement.

8. He lastly submits that the suspension of the petitioner in the departmental enquiry has been revoked through force order no. 1298/2021 dated 05.11.2021 and the petitioner has retired on 22.12.2022. Therefore, he must also be enlarged on benefit of anticipatory bail.

9. Learned APP for the State vehemently opposing the bail petition submitted that allegations against the petitioner is that in light of memo no. 831 dated 31.03.2021 of D.I.G., Shahabad range in memo no. 2792 dated 01.04.2021 of S.P., Rohtas, it came to light that on the basis of wrong entry has been made in the date of lodging FIR with the intention to falsely implicate one Prince Kumar and involvement of the accused owner of the premises Janeshwar Singh was not made. It has been further alleged from Sanha no. 96 dated 04.01.2019 at 7:30 PM, Janeshwar Singh gave information on phone that illegal liquor has been kept in his crusher machine, but the same information has not been mentioned in Sanha no. 96, and the time of arrival has been shown at 9:30 AM on 05.01.2019



in the case diary. The signature of the officer in-charge (petitioner) on the application has been changed from 04.01.2019 to 05.01.2019. At the alleged time of recovery of illegal liquor, Janeshwar Singh is an accused in Dehri Nagar P.S. Case No. 607/2017, but he was not arrested by the petitioner. He further submits that the petitioner was physically present at the place of occurrence but he has shown himself present at the police station in the station diary.

10. Heard the arguments of parties at length and perused the materials on record and case diaries, after going through the same it appears that the petitioner was the S.H.O. of Dehri (T) police station at the relevant time and he has concealed and entered false entries regarding commission of offence and also manipulations and overwriting has been occurred in the station diary, FIR and other papers. It is also clear that the petitioner has falsely implicated Prince Kumar and unknown persons in the Excise Case at the place of Janeshwar Singh, this fact has also been supported by the informant and other witnesses during the investigation. The argument placed before the Court that the petitioner has been removed from the suspension in departmental enquiry, but it is very much clear the departmental proceeding and the court proceeding is different



things and the further investigation is pending.

11. Considering the facts and circumstances of the case as well as the fact that there is ample evidence available in the case diaries and other materials against the petitioner, I am not inclined to enlarge the petitioner on anticipatory bail. The prayer for anticipatory bail of the petitioner is hereby rejected.

**(Anjani Kumar Sharan, J)**

anand/-

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