

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.21845 of 2023

Arising Out of PS. Case No.-338 Year-2022 Thana- MAHUA District- Vaishali

Shivji Ray, Male, age about 68 years, S/O Late Ramashish Ray, R/O Village-
Karhari, P.O and P.S- Bhagwanpur, Distt.- Vaishali at Hajipur.

... .. Petitioner

Versus

THE STATE OF BIHAR

... .. Opposite Party

Appearance :

For the Petitioner : Mr. Santosh Kumar, Advocate

For the Opposite Party : Mr. Lakshmi Kant Sharma, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 16-05-2023 Heard learned counsel for the petitioner and
learned A.P.P. for the State.

The petitioner is apprehending his arrest in connection with Mahua P.S. Case No. 338 of 2022 for the offence registered under Sections 272, 273/34 of the I.P.C. and Section 30(a) of the Bihar Prohibition and Excise (Amendment) Act, 2018.

The prosecution story, in brief, is that total 45.750 liters wine is said to have been recovered from the car in question.

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 45.750 liters wine is recovered from the car in question. It is also alleged that three Motorcycles were also parked at some distance of the said car. The car in question does not belong to the petitioner. The petitioner is not named in the F.I.R. The name of the petitioner has transpired in the present case on the basis of one of the seized Motorcycle bearing Registration No. BR31AN-8991 which was parked at some distance of the said car. The petitioner is alleged to be the owner of the said Motorcycle. The said Motorcycle was given by the petitioner to his co-villager for his personal use. There is no recovery of any liquor from the Motorcycle of the petitioner. 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 not 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 Mahua P.S. Case No. 338 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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