

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.21230 of 2023

Arising Out of PS. Case No.-17 Year-2023 Thana- KHANPURA District- Samastipur

MAHESH KUMAR S/o- RAJ KUMAR MAHTO VILLAGE SINGHIA
BUJURG WARD NUMBER 7 PS BIBHUTIPUR DISTRICT SAMASTIPUR

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Mritunjay Kumar

For the Opposite Party/s : Mr. Aditya Narayan Singh.1

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 15-05-2023 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

The petitioner apprehends his arrest in a case registered for the offences punishable under Sections 30(a), 36 and 41(1) of the Bihar Excise Act.

Learned counsel for the petitioner submits that the petitioner is a person with clean antecedent and allegation is of recovery of 1022.325 liters of liquor from a pick-up van.

Learned counsel for the petitioner submits that the petitioner was not apprehended from the spot as such nothing was recovered from his conscious possession, it is next submitted that the petitioner came to be implicated as he was identified by the Chowkidar with whom he is on a inimicle term, it is further submitted that the petitioner is the owner of



the pick-up van.

Learner counsel submits that no prudent businessman would use his own vehicle for committing a crime and thus would get implicated easily when admittedly petitioner is a person with clean antecedent.

The Court fails to appreciate why the learned Trial Court did not record the facts of the case to arrive at a conclusion whether bar of Section 76(2) of the Act gets attracted or not, in the facts of the case.

To this Court the rejection of anticipatory bail application of the petitioner by the learned Trial Court appears to be mechanical.

The Court refrains from making any comment for the present but a word of advice is rendered to the Learned Judge not to reject anticipatory bail application under the Excise Act in mechanical manner.

Let this order be communicated to the Learned District Judge for perusal of the concerned Learned Court.

Learned A.P.P. for the State opposes the prayer for anticipatory bail of the petitioner.

Considering the submissions made by the learned counsel for the petitioner, the petitioner above-named, in the



event of his arrest or surrender before the learned trial court within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 1,000/- (Rupees One Thousand) each with two sureties of the like amount each to the satisfaction of the learned trial court where the case is pending/successor court in connection with Khanpur P.S. Case No. 17 of 2023 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

(Satyavrat Verma, J)

HarshPandey/-

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