

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.21161 of 2023

Arising Out of PS. Case No.-331 Year-2022 Thana- GOVERNMENT OFFICIAL COMP.
District- Samastipur

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KUNDAN KUMAR @ KUNDAN KUMAR RAY Son of Sant Lal Ray
Resident of Village - Chandauli, P.S.- Tajpur (Waini O.P.), District -
Samastipur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Vikash Kumar Jha, Advocate

For the Opposite Party/s : Mr. Gauri Shankar Gupta, APP

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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 Section 30(a) of the
Bihar Excise Act.

Learned counsel for the petitioner submits that the
petitioner has antecedent of two cases and allegation is of
recovery of 252.72 liters of liquor from a vehicle and three
persons were arrested.

Learned counsel for the petitioner submits that the
petitioner was not arrested from the spot as such nothing was
recovered from his conscious possession, it is next submitted
that petitioner is neither the owner nor the driver of the vehicle



and he came to be implicated based on confessional statement of co-accused in police custody which does not have any evidentiary value, it is further submitted that the police falsely implicated the petitioner through confessional statement based on his 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, 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. 10,000/- (Rupees Ten Thousand) 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 Samastipur Excise P.S. Case No. 331 of 2022 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

(Satyavrat Verma, J)

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