

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.36332 of 2023

Arising Out of PS. Case No.-122 Year-2023 Thana- SIMRI District- Buxar

Sudama Sah @ Sudama Kanu Son Of Laxman Kanu @ Laxman Sah R/O Vill
Simari Dudhipatti, Ps- Simari, Distt- Buxar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Dr. Kamal Deo Sharma, Adv.

For the Opposite Party/s : Mr. Gulnar Begum, APP

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL ORDER

2 21-07-2023 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. The petitioner apprehends his arrest in a case registered for the offences punishable under Section 30(a) of the Bihar Prohibition and Excise Act, 2016 read with (Amendment) Act, 2018.

3. As per the prosecution case, the police upon receiving the secret information that accused Bhim Yadav is coming with wine. The police has stopped the vehicle, from which two persons fled away but one person was apprehended. From the said vehicle, total 172.8 litre wine has been recovered. The apprehended person Bhim Yadav has disclosed the name of the present petitioner, due to which the F.I.R. has been lodged against three named accused persons.

4. Learned counsel for the petitioner submits that the petitioner is innocent and has committed no offence. Counsel submits that the alleged vehicle does not belong to the petitioner. Counsel submits that the petitioner has not been apprehended nor anything has been found from his possession.

5. Learned counsel for the petitioner further submits that the antecedent of the petitioner is clean and he is ready to fulfill all the conditions whatsoever shall be imposed upon him by the Court. Counsel submits that there is gross violation of Section 100 of the Cr.P.C.

6. Learned counsel for the petitioner also submits that in the light of the case of *Tofan Singh Vs. The State of Tamil Nadu reported in AIR 2020 SC 5592*, the confessional statement shall not support the prosecution in any manner. Counsel further submits that the petitioner is well aware that under Section 76(2) of the Bihar Prohibition and Excise Act, 2016, anticipatory bail is not applicable in excise matters but he filed application only due to the reason that no offence is made out under the Excise Act against him.

7. Learned A.P.P. for the State opposes the prayer for bail.

8. In the present facts and circumstances of the case

and the submissions made above, let the above named petitioner be released on anticipatory bail, in the event of arrest or surrender before the learned Court below within a period of four weeks from today, on furnishing bail bond to the satisfaction of the learned Exclusive Special Judge, Excise Court No. 2, Buxar in connection with Simari Hata P.S. Case No. 122 of 2023, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Dr. Anshuman, J.)

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