

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.36327 of 2023

Arising Out of PS. Case No.-192 Year-2023 Thana- TAJPUR District- Samastipur

Sonu Kumar Son Of Niras Singh Resident Of Village- Akhtiyarpur
Chandauni, Ward No. 5, Ps- Tajpur, (Waini O.P.), Distt- Samastipur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Lakshmindra Kumar Yadav, Adv.

For the Opposite Party/s : Mr. Manoj Kumar, APP

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL ORDER

2 21-07-2023 Let the defect(s), if any, be removed within two weeks
from today.

2. Heard learned counsel for the petitioner and learned
A.P.P. for the State.

3. The petitioner apprehends his arrest in a case
registered for the offences punishable under Sections 30(a),
41(2)(i) of the Bihar Prohibition and Excise Act, 2016 read with
(Amendment) Act, 2018.

4. As per the prosecution case, the police has
apprehended one person, who was on motorcycle and from the
motorcycle, total 3 litre foreign whiskey has been recovered.
The apprehended accused has disclosed that the petitioner was
sitting on the motorcycle with him.

5. Learned counsel for the petitioner submits that the

name of the petitioner has figured in this case by virtue of the confessional statement of the co-accused. Counsel submits that nothing was recovered from the possession of the petitioner, save and except, the confessional statement, there is absolutely nothing against the present petitioner.

6. Learned counsel for the petitioner further submits that petitioner is well aware that according to Section 76(2) of the Excise Act 2016, anticipatory bail is not applicable but no offence is made out in this case, therefore, the petitioner deserves anticipatory bail.

7. Learned counsel for the petitioner fairly submits that the only material against the present petitioner that his antecedent is not clean and he is accused in one case of similar nature. Counsel submits that the petitioner is ready to fulfill all the conditions whatsoever shall be imposed upon him by the Court.

8. Learned counsel for the State opposes the prayer for bail and submits that the apprehended accused has disclosed the entire *modus operandi* of commission of the crime by him alongwith the present petitioner. Counsel also submits that since antecedent of the petitioner is not clean and he is accused in the same offence earlier and, therefore, he did not deserve for

anticipatory bail

9. In the present facts and circumstances of this case and the submissions made above, this Court is not inclined to extend the privilege of anticipatory bail to the petitioner in connection with Tajpur (Waini O.P.) P.S. Case No. 192 of 2023 to the satisfaction of learned Special Judge (Excise)-02, Samastipur.

10. Accordingly, the prayer for anticipatory bail of the petitioner stands rejected.

11. However, the learned Court below shall consider the prayer for regular bail of the petitioner if, the petitioner surrenders within a period of eight weeks.

12. The present order shall not cause any prejudice to the petitioner.

(Dr. Anshuman, J.)

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