

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.36623 of 2023

Arising Out of PS. Case No.-129 Year-2023 Thana- BIDUPUR District- Vaishali

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Vikash Kumar S/o Kusheshwar Singh @ Kusheshwar Prasad Singh R/o
Village- Kanchanpur, P.S- Bidupur, Distt.- Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Alok Kumar Alok

For the Opposite Party/s : Mr. Rajiv Nayan

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CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

2 31-07-2023 Heard the learned counsel for the petitioner and the

State.

2. The present petition has been filed on behalf of the petitioner, apprehending his arrest, in connection with Bidupur P.S. Case No. 129 of 2023, registered for the offences punishable under Sections 30 (a), 32 (ii)(iii), 36, 41, (i)(ii) of the Bihar Prohibition and Excise Act.

3. As per allegation, 720 liters of liquor has been recovered from a Bolero Pick Up parked in a mango orchard.

4. The learned counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in this case. He further submits that as per the prosecution case the person involved in the alleged offence had fled away taking the



advantage of darkness. However, as per further allegation, local Chowkidar identified the accused persons involved in the alleged offence. As such, case of the prosecution is contradictory because once the persons have fled away, there was no occasion to the Chowkidar to identify the persons involved in the alleged offence. Hence, the petitioner has been implicated in this case without any legal basis. He further submits that the co-accused person, namely, Ravindra Rai has been enlarged on bail by a co-ordinate Bench of this Court vide order dated 26.06.2023, passed in Cr. Misc. No. 38577 of 2023.

5. It is also stated in paragraph no. 2 of the petition that petitioner has not moved this court for anticipatory bail in this case.

6. It has further been stated that the petitioner has been made accused in two more cases.

7. However, the learned APP for the State has opposed the prayer for bail.

8. In view of the aforesaid facts and circumstances, prima facie, no case is made out against the petitioner. Hence the present anticipatory bail application is maintainable.



9. Considering the aforesaid facts and circumstances, the present petition is allowed directing the petitioner, above-named, to be enlarged on bail in the event of his arrest or surrender before the court below within a period of eight weeks from the date of receipt / production of a copy of this order, on his furnishing bail bonds in the sum of Rs. 10,000 /- (Ten Thousand) with two sureties of the like amount each to the satisfaction of Ld. Exclusive Special Excise Court No.1-cum-Additional Sessions Judge, Vaishali, Hajipur, in connection with Bidupur P.S. Case No. 129 of 2023, subject to the conditions as laid down under Section 438 (2) Cr.P.C. and on the following conditions:

(i) In case, it is brought to the notice of the court below that the petitioner has criminal antecedent other than the disclosed one, the learned court below shall cancel the bail bond of the petitioner after hearing him and getting satisfied that the petitioner has concealed his criminal antecedent despite his knowledge of the same.

(ii) In case, it is brought to the notice of the court below that statement regarding previous bail petition is wrong,



the learned court below shall cancel the bail bond of the petitioner.

(iii) In case, the petitioner repeats offence of similar nature after enlargement on bail and charge is framed with regard to alleged subsequent offence, his bail-bond will be cancelled by the court below.

10. The learned counsel for the petitioner is directed to remove all the defects pointed out by the office within a period of one month and the Registry is directed to issue the certified copy of this order only after removal of office objections.

(Jitendra Kumar, J)

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