

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40283 of 2023

Arising Out of PS. Case No.-21 Year-2021 Thana- KHODAWANDPUR District- Begusarai

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DHIRAJ KUMAR @ ABHISHEK KUMAR S/O SUBHASH MAHTO @
PANNALAL MAHTO R/O Village- Kumbhi, PS. Cheria Bariyarpur, Dist.
Begusarai

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Arjun Prasad, Advocate

For the Opposite Party/s : Mrs. Pushpa Sinha, APP

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 14-07-2023 Heard learned counsel for the petitioner and learned
APP for the State.

The petitioner is an accused in connection with Khodawandpur P.S. Case No. 21 of 2021 registered for the offences under sections 188, 272, 273 and 120(B) of the Indian Penal Code lodged and section 30(a) of the Bihar Prohibition and Excise Act lodged on 19.01.2021 by the informant, Om Prakash Kumar.

As per the prosecution story, the informant A.S.I. Md. Moinuddin along with his associates BMP Havildar on 18- 01- 2021 departed from the police station for the purpose of night patrolling. During the course of patrolling, at about 11.00 pm when the police team was at Village- Rajapur got secret



information that from Bari Jana to Kumbhi Road near the house of one Arun Yadav under '*orchard*' a pick up van was unloading the illegal wine.

Informant gave the information to his superiors and reached at Kumbhi Road and saw that one car and one Splendor motorcycle was standing and on seeing the police vehicle, four persons tried to flee in which one person was apprehended by the police. On query, he disclosed his name as Milan Kumar also disclosed the names of escaped persons as 1. Abhishek Kumar, 2. Arun Yadav 3. Amarjit Kumar Das. Thereafter search was made and from the Maruti Car bearing Reg. No WB-02X-5902, total 27 cartoon illegal English wine has been recovered and from the '*orchard*' total 36 cartoon English wine of different size and description has been recovered. Accordingly seizure list was prepared and F.I.R. was lodged.

It has been contended by the learned Counsel for the petitioner that the alleged recovery of 422 litres 220 ml of foreign liquor is from backyard of the house as also vehicle of the Arun Yadav and so far as this petitioner is concerned, his name has been provided by the accused, Milan Kumar of having escaped from the place of occurrence that led to his judicial custody since 17.05.2023 (as stated in paragraph 15 of the bail



application).

Learned APP for the State, on the other hand, opposes the prayer for bail attributing the fact that 422 litres 220 ml of foreign liquor has been recovered/seized.

Considering the fact that alleged recovery/seizure is from the backyard of the house of the Arun Yadav as also his vehicle, petitioner is in custody since 17.05.2023 and was not arrested from the spot, this Court is inclined to extend him privilege of bai.

Let the petitioner be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of like amount each to the satisfaction of the learned Exclusive Speical Excise Judge-I, Begusarai in connection with Khodawandpur P.S. Case No. 21 of 2021, subject to the following conditions-:

(i) one of the bailor should be the family member of the petitioner who shall provide official document to show his *bona fide*;

(ii) the petitioner shall appear on each and every date before the Trial court and failure to do so for two consecutive dates without plausible reason will entail cancellation of his bail bond by the Trial court itself;



(iii) the petitioner shall appear before the concerned police station every month for next one year to mark attendance;

(iv) the petitioner shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of his bail bonds;

(v) the petitioner shall desist from committing any criminal offence again failing which the State shall be at liberty to take steps for cancellation of the bail bonds.

With the aforesaid observations, the bail application is allowed.

(Rajiv Roy, J)

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