

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.42783 of 2023

Arising Out of PS. Case No.-7 Year-2023 Thana- RAIYAM District- Darbhanga

Kundan Kumar Mahto @ Spider Son Of Late Ram Bilas Mahto Village Bhelu
Chack Donar Ps Sadar District Darbhanga

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Baidya Nath Prasad, Advocate

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

CORAM: HONOURABLE MR. JUSTICE VIPUL M. PANCHOLI
ORAL ORDER

2 04-08-2023 This application is filed under Section 438 of Code of Criminal Procedure, 1973 for enlarging the applicant on anticipatory bail in connection with Raiyam P.S. Case No. 07 of 2023 registered for the offences punishable under Section 30(a) of the Bihar Prohibition of Excise Act.

2. Heard Mr. Baidya Nath Prasad, learned advocate for the applicant and Mr. Anil Kumar, learned APP for respondent-State.

3. Learned counsel for the applicant submits that the applicant has been implicated in FIR in question only on the basis of confessional statement of the co-accused and 360 liters of liquor was not found from the conscious possession of the applicant and therefore, the case of the applicant can be considered.



4. On the other hand, learned APP for the State at the outset pointed out that there are two antecedents against the applicant of similar nature and though the co-accused disclosed the name of the present applicant in his confessional statement, in the facts of the present case, custodial interrogation of the applicant is required. He, therefore, urged that this application be dismissed.

5. I have considered the submissions canvassed by learned Advocates. I have also perused the material placed on record. It is not in dispute that against the applicant, two other similar types of FIRs have been registered and the present one is the third FIR. It is true that the applicant has been implicated on the basis of the statement of the co-accused. However, this Court is of the view that such type of confessional statement of the co-accused can be considered as a clue for further investigation.

6. Custodial interrogation of the applicant is required in the present case with a view to verify it by the investigating agency that, infact, the present applicant was in contact with the other co-accused who has given the name of the applicant by obtaining CDR from the concerned mobile company.

7. Thus, looking to the facts and circumstances of the



present case and more particularly when there is a bar under Section 76 (2) of the Bihar Prohibition and Excise Act 2016, I am not inclined to entertain this application.

8. Hence, the prayer for anticipatory bail of the applicant is rejected.

(Vipul M. Pancholi, J)

Adnan/-

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