

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46604 of 2023

Arising Out of PS. Case No.-101 Year-2023 Thana- KALYANPUR District- Samastipur

Baidhnath Ray @ Baidyanath Ray @ Baijnath Ray, Son of Sri Gulab Ray
Resident of Village- Ward No. 2, Purnahi, PS- Warisnagar, Dist- Samastipur
... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s :	Ms. Sushmita Sharma, Advocate Mr. Abhishek Anand, Advocate Ms. Kanu Priya, Advocate
For the Opposite Party/s :	Mr. Pawan Kumar Chaurasia, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 06-12-2023 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner in the present case is seeking pre-arrest bail in connection with Kalyanpur P.S. Case No. 101 of 2023 registered for the offences punishable under Sections 30(a), 32(3), 36, 41(1) of the Bihar Prohibition and Excise (Amendment) Act, 2022. He has got four criminal antecedents and in all the cases, he is said to be on bail.

3. As per the prosecution story, on 04.05.2023 during patrolling duty, the informant got secret information that Dilip Ray, Om Prakash Mahto, Baidhnath Ray (petitioner), Santosh Jha and Raju Pandit have brought huge quantity of liquor and are selling it in Fulhara Dih Chor. On this information, the informant along with other police officials reached at the place of occurrence

where on seeing the police party, 8-10 persons started fleeing away and ultimately they managed to escape taking advantage of darkness. On search, total 3270.600 liters of foreign liquor was recovered from the truck bearing registration No. BR02M-4067, pickup van bearing registration no. BR33F-9735, another pickup bearing registration no. BR33GB-5797 and motorcycle bearing registration No. BR33AJ-6623 which were parked at the place of occurrence.

4. Learned counsel for the petitioner submits that in this case, there is no identification of the petitioner at the place of occurrence. It is alleged that about 8-10 persons were allegedly seen by police who fled away. The name of the petitioner has been implicated in this case on mere surmises and conjectures because he has got some criminal antecedents.

5. Learned counsel further submits that the truck and pickup vans which were seized from the place of occurrence do not belong to the petitioner and the seizure list witnesses are the members of the raiding team. It is further submitted that the location at which the truck and pickup vans were being unloaded is a parti/Govt. land as is given in the case diary.

6. On the other hand, learned APP for the State has opposed the prayer for anticipatory bail of the petitioner. It is submitted that the petitioner has got four criminal antecedents as

per the paragraph '3' of the application and after filing of this case, he has also been made accused in Hayaghat (Dharbhanga) P.S. Case No. 92 of 2023 dated 27.06.2023 under the Bihar Prohibition and Excise Act.

7. Learned APP for the State has gone through the case diary, however, after going through the case diary, he is unable to demonstrate that any witness has identified the petitioner on the spot. All that is stated in the case diary is that the police party had got secret information about the presence of the petitioner along with the other persons on the spot.

8. Having regard to the facts and circumstances of the case even as this Court finds that there are four cases stated in paragraph '3' of the application but in those cases, the petitioner is on bail and so far as the present case is concerned, in the kind of materials placed before this Court, there being no identification of the petitioner on the spot and no independent witness being present in the case diary to implicate the petitioner, this Court directs that in case of his arrest or surrender within a period of four weeks from today, the petitioner above named be released on bail in connection with Kalyanpur P.S. Case No. 101 of 2023 on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, Excise Court-01, Samastipur,

subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

9. And further condition that the petitioner shall present himself before the Investigation Officer of the case within two weeks from today and shall cooperate with the investigation. The Office-in-Charge of the police station within whose jurisdiction the petitioner is residing shall ensure that the whereabouts of the petitioner is duly provided to the police station on regular basis. The petitioner shall mark his attendance in the police station at least once in every two months.

10. And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage, it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

11. This application stands allowed.

12. Let this order be communicated to the S.H.O., Warisnagar Police Station in the District of Samastipur.

(Rajeev Ranjan Prasad, J)

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