

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.49168 of 2023

Arising Out of PS. Case No.-91 Year-2022 Thana- AKBARNAGAR District- Bhagalpur

Dhiraj Kumar, Son of Kailash Prasad Yadav @ Kailash Yadav, Resident of
village - Akbarnagar, P.S. - Akbarnagar, Distt. - Bhagalpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mrs. Anita Kumari Singh, Advocate Mr. Paritosh Parimal, Advocate
For the Opposite Party/s :	Mr. Yogendra Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 11-08-2023 Heard learned counsel for the petitioner and learned
APP for the State.

2. In the present case, the petitioner is apprehending his arrest in connection with Special Excise Case No. 4817 of 2022 arising out of Akbarnagar P.S. Case No. 91 of 2022, registered for the alleged offences under Section 30(a) of the Bihar Prohibition and Excise Act.

3. As per prosecution case, police received secret information about petitioner and co-accused bringing illicit liquor and involved in trade of the same. A raid was conducted at the identified place and two persons fled away from the spot. The villagers named this petitioner and co-accused as the persons who fled away while raid was being conducted.



Recovery of 56.280 litres of India made foreign liquor and 10 litres of country made *chulai* liquor were made from the spot.

4. The learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case. Co-accused Neeraj Kumar was apprehended and during course of investigation he disclosed the name of the petitioner, who is the full brother of the apprehended co-accused. Learned counsel further submits that recovery is said to be made from the field of one Anandi Yadav and this fact is apparent from the seizure list. Nothing incriminating has been recovered from the person or possession of the petitioner. The petitioner is not involved in any manner with the alleged liquor. Petitioner has nothing to do with the place from where the recovery has been made. Learned counsel further submits that petitioner is accused in three cases under the Excise Act but he is on bail in all such cases.

5. Learned APP opposes the prayer for anticipatory bail made on behalf of the petitioner.

6. Having regard to the facts and circumstances and submissions made on behalf of the parties and considering the fact that the recovery has not been shown from the possession of this petitioner and the same has been recovered from an open



place and also considering the fact that the petitioner has been made accused in this case only on the basis of suspicion, let the petitioner, above named, in the event of his arrest or surrender before the court concerned within a period of eight weeks from today, be released on bail, on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-IX-cum-Special Excise Judge, Bhagalpur/court concerned, in connection with Special Excise Case No. 4817 of 2022 arising out of Akbarnagar P.S. Case No. 91 of 2022, subject to the conditions mentioned in Section 438(2) of the Cr.P.C. and the following conditions:

- (i) One of the bailors will be a close relative of the petitioner.
- (ii) The petitioner will remain present on each and every date fixed by the court below, if so required by the learned trial court.

(Arun Kumar Jha, J)

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