

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.49136 of 2023

Arising Out of PS. Case No.-334 Year-2023 Thana- BARACHATTI District- Gaya

Kapil Chaudhary Son Of Late Mathura Chaudhary Resident Of Village-
Dumari Lakhaipur Tola, Post Office- Lakhaipur, Police Station- Mohanpur
District- Gaya

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ujjawal Kumar Singh, Advocate

For the Opposite Party/s : Mr. Tarkeshwar Nath Thakur, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

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

02. In the present case, the petitioner is apprehending his arrest in connection with Barachatti (Mohanpur O.P.) P.S. Case No. 334 of 2023, registered on 03.04.2023, for the alleged offence under Section 30(a) of the Bihar Prohibition and Excise (Amendment) Act, 2018.

03. As per prosecution case, the police received secret information about petitioner and co-accused Jeerva Devi manufacturing illicit liquor, a raid was conducted and from the house of the petitioner 08 liters of country made *mahua* liquor was recovered. From the house of the co-accused, 07 liters of country made *mahua* liquor was recovered.



04. Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case. The place on where the recovery has been made, does not belong to the petitioners. For an occurrence of 02.04.2023, the FIR has been registered next day, i.e., on 03.04.2023 and the same was sent to the court on 05.04.2023 and there is no explanation for the delay. Learned counsel further submits that nothing incriminating has been recovered from the conscious possession of the petitioner and there is no independent witness of the seizure list. The petitioner has got no criminal antecedent.

05. Learned A.P.P. for the State vehemently opposes the prayer for anticipatory bail. Learned A.P.P. further submits that the petitioner was specifically named in the FIR and the recovery has been made from his house.

06. Having regard to the facts and circumstances and considering the allegation against the petitioner that recovery has been made from his house, I do not think it is a fit case for grant of anticipatory bail. Hence, prayer for anticipatory bail of petitioner is hereby rejected.

07. However, if the petitioner surrenders before the learned lower court, the learned lower court shall consider the prayer for bail of the petitioner on its own merit, without being



prejudiced by this order.

(Arun Kumar Jha, J)

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