

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61756 of 2023

Arising Out of PS. Case No.-32 Year-2023 Thana- PHULPARAS District- Madhubani

PRABHU RAI @ PRABHU RAY @ PRABHU YADAV S/O
CHANDESHWAR YADAV @ CHANDRASHEKHAR YADAV RESIDENT
OF MOHALLA- KISANIPATTI, P.S.- GHOGHARDIHA, DISTRICT-
MADHUBANI

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Jitendra Kumar Bharti, Advocate

For the Opposite Party/s : Mr. Dr. Kumar Uday Pratap, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

2 13-10-2023

Heard the parties.

2. The petitioner is apprehending his arrest in connection with Phulparas P.S. Case No. 32 of 2023 for the offence under sections 30(a) of Bihar Prohibition and Excise Act 2018 lodged on 20.01.2023 by the informant, Lalan Prasad Chaudhary.

3. As per the prosecution story, the allegation is that the Police got information about presence of vehicle from which the liquor is being unloaded, reached and upon search, 1026 liters of foreign liquor recovered/seized. Accordingly the FIR.

4. Learned counsel for the petitioner submits that nothing has been recovered from his conscious possession, the alleged recovery is from a pick-up van which does not belong to



him as he is neither the owner nor the driver and/or the cleaner of the said vehicle and some of the co-accuseds namely, Hira Lal @ Hira Lal Roy @ Hira Lal Ray and Lalita Devi have since been granted relief vide Cr. Misc. No. 23274 of 2023 and Cr. Misc. No. 38784 of 2023 respectively.

5. Further, the submission is that without accepting the allegation, the petitioner intends to deposit Rs. 50,000/- with the Patna High Court Legal Services Committee.

6. Learned APP opposes the prayer he has criminal antecedent.

7. To this, learned counsel for the petitioner submits that only because of criminal antecedent, he has been implicated.

8. Taking into account the fact that the recovery is from a pick-up van and not from his conscious possession, he does not own the said vehicle nor the driver and similar situate co-accused have since been granted relief, as stated above, this Court is inclined to extend him the privilege of anticipatory bail subject to payment of Rs. 50,000/- as undertaken by the learned counsel for the petitioner to be deposited with the Patna High Court Legal Services Committee.

9. Let the petitioner be released on bail in the event



of arrest or surrender within a period of four weeks from the receipt of this order, on furnishing bail bond of Rs. 10,000/- (Ten thousand) each with two sureties of like amount each to the satisfaction of learned Special Judge Excise Act, Jhanjharpur, District- Madhubani, in connection with Phulparas P.S. Case No. 32 of 2023 subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(i) one of the bailor should be the family member of the petitioner who shall provide official document to show his/her 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 fortnight for next six months to mark his 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 the 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 his bail bonds.

10. With the aforesaid observations, the anticipatory bail application is allowed.

(Rajiv Roy, J)

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