

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.53810 of 2023

Arising Out of PS. Case No.-255 Year-2023 Thana- MADHAURAH District- Saran

Chandan Kumar Jaiswal @ Chandan Jaiswal Son Of Manoj Jaiswal Village
Mirzapur Ps Marhowrah District Saran

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rakesh Kumar Sharma

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

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

2 19-08-2023 Heard the learned counsel for the petitioner and the

State.

2. The petitioner seeks bail, apprehending his arrest, in connection with Marhowrah P.S. Case No. 255 of 2023 dated 15.05.2023, registered for the offences punishable under Sections 30(a) of the Bihar Prohibition and Excise Act, 2018.

3. As per allegation, 16.100 litres of Indian Made Foreign Liquor was recovered from the bush behind the house of the petitioner.

4. The learned counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in this case. He further submits that nothing has been recovered from the conscious possession of the petitioner. He also submits that the alleged contraband was recovered from the bush behind



house of the petitioner, which is an open area. It is further submitted that there is no basis for the police to show that the petitioner was involved in the alleged offence and as such no case, *prima facie*, is made out under the Excise Act against the petitioner.

5. It is also stated in paragraph no. 2 of the bail petition that the petitioner has not moved this Court earlier for anticipatory bail in this case.

6. It has further been stated that the petitioner has no criminal antecedent.

7. However, the learned APP for the State has opposed the prayer for bail.

8. In view of the aforesaid facts and circumstances, no case, *prima facie*, is made out against the petitioner for want of any cogent legal material against him. Hence, the present anticipatory bail application is maintainable.

9. Considering the aforesaid facts and circumstances, particularly the small quantity of the recovery, the petitioner, above-named, is directed to be released on bail, in the event of his arrest or surrender before the court below within a period of eight weeks from the date of receipt / production of a copy of this order, on his furnishing bail bonds in the sum of Rs.



10,000 /- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the Ld. 2Nd Exclusive Special Excise Judge, Saran at Chhapra, in connection with Marhowrah P.S. Case No. 255 of 2023, subject to the conditions as laid down under Section 438 (2) Cr.P.C. and on the following conditions:

(i) In case, it is brought to the notice of the court below that the petitioner has any criminal antecedent, the learned court below shall cancel the bail bond of the petitioner after hearing him and getting satisfied that the petitioner has concealed his criminal antecedent despite his knowledge of the same.

(ii) In case, it is brought to the notice of the court below that statement regarding previous bail petition is wrong, the learned court below shall cancel the bail bond of the petitioner.

(iii) In case, the petitioner repeats offence of similar nature after enlargement on bail, his bail-bond will be cancelled by the court below.

10. The learned counsel for the petitioner is directed to remove all the defects pointed out by the office within a period of one month and the Registry is directed to issue the certified copy of this order only after removal of office



objections.

(Jitendra Kumar, J)

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