

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 58803 of 2023

Arising Out of PS. Case No.-386 Year-2022 Thana- MADHAURAH District- Saran

Nikesh Kumar S/O Raj Narayan Mahto R/O Village- Phulwaria Farukha, PS
Garkha, Dist. Saran at Chapra (Bihar)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Jagannath Singh, Advocate

For the Opposite Party/s : Mr.Ajit Kumar, APP

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

4 06-12-2023 At the very outset, learned counsel appearing on behalf of the petitioner seeks to delete the statement made in paragraph no.13 of the bail application that one case is pending against the petitioner, in which he is on bail.

2. Permission granted.

3. Heard Mr. Jagannath Singh, learned counsel appearing on behalf of the petitioner and Mr. Ajit Kumar, learned APP for the State.

4. Petitioner seeks pre-arrest bail in connection with Madhourah P.S.Case No.386 of 2022, registered for the offences punishable under Sections 420, 467, 468 & 471 of the Indian Penal Code and Section 30(a)/41 (2) of the Bihar Prohibition & Excise Act.

5. As per the allegation made in the FIR, the raiding



team of prosecution unit found liquor being unloaded from a truck and being transferred to another place by a Pick-up Van and the motorcycles. Total quantity of 3051 ltr. of the Indian Made Foreign Liquor was seized and four persons were apprehended.

6. Mr. Jagannath Singh, learned counsel appearing on behalf of the petitioner submitted that the petitioner is innocent and even relying upon the statement of the co-accused, Chandan Kumar that the petitioner had come to purchase liquor for consumption and after finding the raiding team, he had fled away from the place of occurrence, does not show the involvement of the petitioner in the trade of liquor.

7. Mr. Ajit Kumar, learned APP appearing on behalf of the State submitted that on perusal of paragraph no.60 of the case diary, it appears that the petitioner was having money transaction with co-accused, Alok Kumar, as such the complicity of the petitioner in the alleged trade of illicit liquor can not be denied. He further submitted that the petitioner is accused in Garkha P.S.Case No.144 of of 2015.

8. Having considered the rival submissions made on behalf of the parties, as well as, the allegation made in the FIR, it appears that the petitioner's name has surfaced on the basis of



confessional statement of co-accused, Chandan Kumar in police custody but such confessional statement taken in the police custody has no evidentiary value, however considering the fact that one criminal case is pending against the petitioner. I find it proper that the petitioner may appear before the court below and file his application for regular bail and on the basis of material available on record, the learned district court may consider to release the petitioner on regular bail, in accordance with law.

9. The court below is also directed to verify the criminal antecedent of the petitioner, as stated in paragraph no.3 of the bail application. If any other case is pending against the petitioner, as what has been stated in paragraph no.3, this order will lose its force automatically.

10. With the above observation/direction, the present application is disposed of.

(Purnendu Singh, J)

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