

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.57142 of 2023

Arising Out of PS. Case No.-61 Year-2022 Thana- GOVERNMENT OFFICIAL COMP.
District- Araria

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Gholta Bahardar @ Gholtu Kumar, S/O Rajdev Bahardar, Resident of Ward
No. 09, Godhi Tola, P.O. And P.S.-DIST. - Araria

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rabindra Kumar Priyadarshi, Adv.
Mr. Dheeraj Kumar, Adv.
For the Opposite Party/s : Mr. Sucheta Yadav, APP

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CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

2 13-09-2023 1. Heard learned counsel for the petitioner and
learned APP for the State.

2. The petitioner apprehends his arrest in
connection with Araria P.S. Case No. 61 of 2022 dated
15.04.2022 registered for the offence punishable under Section
30(a) of the Bihar Prohibition and Excise Act.

3. The main submissions advanced by learned
counsel for the petitioner are that the petitioner has fair and
clean antecedent, admittedly he was not apprehended at the
place of recovery of the alleged liquor which is stated to have
been made from a *sack* kept on petitioner's motorcycle, in fact
the said motorcycle had been taken by co-accused Kalicharan
Bahardar, who happens to be an agnate of the petitioner, on the



pretext of some urgent work and thereafter, the said co-accused misused the petitioner's motorcycle in carrying the alleged liquor and regarding the said recovery, the petitioner had no knowledge and except the disclosure made by the apprehended co-accused person regarding petitioner's involvement in the alleged crime, there is no material against him. Further submission is that the alleged offence of Excise Act does not attract against the petitioner as the recovery of the alleged liquor was not made from his conscious possession, hence provision of Section 76(2) of Bihar Prohibition and Excise Act is not applicable in the present matter and the petitioner had no concern with the seized liquor.

4. Learned APP for the State has opposed the prayer for bail.

5. Considering the above submissions and mainly the facts that the petitioner has been dragged in the present matter mainly on account of being the owner of the alleged motorcycle which was used in carrying the alleged seized liquor and also on the basis of disclosure made by apprehended co-accused Kalicharan Bahardar and the petitioner has taken the plea that his motorcycle had been taken by co-accused, who happens to be his agnate, on the pretext of some urgent work and also



taking into account the petitioner's fair and clean antecedent, in my opinion in the said circumstances, the petitioner deserves to the privilege of anticipatory bail. Accordingly, let the petitioner named-above, in the event of his arrest or surrender before the learned Court below within a period of six weeks from today, be released on anticipatory bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount to the satisfaction of the Court concerned in connection with Araria P.S. Case No. 61 of 2022, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Shailendra Singh, J)

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