

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.58755 of 2023**

Arising Out of PS. Case No.-424 Year-2023 Thana- SARAIYA District- Muzaffarpur

Rahul Kumar Son Of Late Umesh Choudhary Resident Of Village- Jalalpur,
Ps- Saraiya, Distt- Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ravi Ranjan, Advocate

For the Opposite Party/s : Mr. Anish Chandra, APP

**CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER**

2 08-09-2023 Heard learned counsel for the petitioner and learned
APP for the State.

2. Petitioner seeks bail, who is in custody since 06.07.2023, in connection with Saraiya P.S. Case No. 424 of 2023, F.I.R. dated 05.07.2023 registered for the offences punishable under Sections 272, 273, 420, 120(B)/34 of the Indian Penal Code and Sections 30(a) 32(2), 32(3), 33, 36, 41(1), 41(2) of the Bihar Prohibition and Excise Act.

3. Recovery is of 300 litres of illicit *spirit*.

4. Learned counsel for the petitioner submits that the petitioner has clean antecedent and he has been falsely implicated in the present case. He further submits that it appears from the F.I.R. as well as seizure list that nothing has been recovered from the conscious possession of the petitioner



rather recovery of 300 litres of spirit has been made from Bolero vehicle in question and as per allegation in the F.I.R. the petitioner proceeded ahead to the Bolero and the name of the petitioner also disclosed by the apprehended co-accused Dipan Rai who was apprehended along with the spirit in the Bolero vehicle. He further submits that from perusal of the F.I.R. nothing incriminating articles has been recovered from the conscious possession of the petitioner and merely on the basis of suspicion, the petitioner was apprehended in the present case. The petitioner is in custody since 06.07.2023.

5. The learned Additional Public Prosecutor for the State has vehemently opposed the prayer for bail of the petitioner and submits that there is direct and specific allegation against the petitioner but fairly submits that nothing has been recovered from the conscious possession of the petitioner.

6. Considering the facts and circumstances of the case, nothing has been recovered from the conscious possession of the petitioner and the petitioner having clean antecedent, let the petitioner, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge (Excise) Court No. II, Muzaffarpur in connection



with Saraiya P.S. Case No. 424 of 2023, subject to the following conditions :-

(1) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court and shall remain physically present as directed by the Court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

(2) If the petitioner tampers with the evidence or the witness, in that case, the prosecution will be at liberty to move for cancellation of bail.

(3) And, further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage, it is found that the petitioner has concealed his criminal antecedents, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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