

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71193 of 2023

Arising Out of PS. Case No.-77 Year-2022 Thana- KALYANPUR District- Samastipur

Om Prakash Mahto @ Om Prakash, Son Of Kari Mahto, Resident Of Village -
Madhutol, Ward No.10, P.S. - Khanpur, District - Samastipur

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ranjit Kumar Yadav, Advocate

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

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 08-11-2023 Heard learned counsel for the petitioner and
learned APP for the State.

2. In the present case, the petitioner seeks bail in connection with Kalyanpur P.S. Case No. 77 of 2022 registered on 01.03.2022 for the alleged offences under Sections 30(a), 32(iii), 36 and 41(i) of the Bihar Prohibition and Excise Act.

3. As per prosecution case, police received secret information about transportation of liquor in a container truck in which the petitioner and co-accused Dileep Roy had been bringing illicit liquor in huge quantity. In followup to the information, the container was intercepted but its driver fled away on seeing the police party. From the container total 2637.00 litres of India made foreign liquor was made.

4. Learned counsel for the petitioner submits that the



petitioner is innocent and has been falsely implicated in this case. The petitioner is neither the owner nor the driver of the seized vehicle. No recovery has been made from the conscious possession of the petitioner. The seized liquor does not belong to this petitioner. The police falsely implicated the petitioner in this case because of his criminal antecedent. Co-accused Dileep Roy has been granted bail by a Co-ordinate Bench of this Court vide order dated 17.04.2023 passed in Cr. Misc. No. 8120 of 2023. The petitioner is in custody since 04.08.2023 and charge-sheet has been submitted.

5. Learned APP opposes the prayer for bail submitting that the petitioner is a habitual offender and is accused in three cases of similar nature. At this stage, learned counsel for the petitioner submits that petitioner has got criminal antecedent of three cases and he is on bail in one case and petition for bail is pending in two cases.

6. Having regard to the facts and circumstances and submissions made on behalf of the parties and considering the fact that no recovery has been shown from the conscious possession of the petitioner who was not apprehended from the spot and also considering the period of custody of the petitioner along with submission of charge-sheet, the petitioner above



named is directed to be released on bail on furnishing bail bonds of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Special Court Excise-I, Samastipur/concerned court in connection with Kalyanpur P.S. Case No. 77 of 2022, subject to the conditions mentioned in Section 437(3) of the Code of Criminal Procedure and also the following conditions :

- (i) One of the bailors will be a close relative of the petitioner.
- (ii) The petitioner will remain present on each and every date fixed by the court below.
- (iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bonds of the petitioner will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

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