

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.66229 of 2023

Arising Out of PS. Case No.-615 Year-2023 Thana- SONEPUR District- Saran

Jamun Chaudhary @ Jammun Chaudhary, Male, aged about 32 years, Son of Bhikkari Chaudhary, Resident Of Village - Semara, P.S. - Sonapur, District - Saran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Avnish Kumar Singh, Advocate

For the Opposite Party/s : Mr. Rajendra Prasad Nat, A.P.P.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 18-10-2023 Heard Mr. Avnish Kumar Singh, learned counsel appearing on behalf of the petitioner and Ms. Rajendra Prasad Nat, learned APP for the State.

2. The petitioner seeks pre-arrest bail in connection with Sonapur P.S. Case No. 615 of 2023 registered for the offence punishable under Section 30 (a) of the Bihar Prohibition and Excise Act as amended up-to-date.

3. Allegation is of recovery of 68 litres of Indian made foreign liquor from a *Tempo* bearing Registration No. BR31 ER 5285.

4. Learned counsel appearing on behalf of the petitioner submitted that petitioner is innocent and he has been implicated in the present case merely on the basis of



confessional statement of one co-accused, namely, Dhiraj Kumar Singh, who was apprehended on the spot and such confessional statement has no evidentiary value in the eye of law, which has been taken in police custody. Nothing has been recovered from the conscious possession of the petitioner. Petitioner was passenger and he was unaware of the fact that the driver of the *Tempo* was carrying illicit liquor. Petitioner is not involved either in manufacturing or in trade of illicit liquor, which is prohibited in the State of Bihar. Petitioner has one criminal antecedent of similar nature in which he is on bail. On these grounds, petitioner seeks to be released on pre-arrest bail.

5. Learned APP for the State vehemently opposed the prayer for grant of pre-arrest bail.

6. Considering the nature of allegation made in the FIR against the petitioner, petitioner has been implicated in the present case merely on the basis of confessional statement of one co-accused, namely, Dhiraj Kumar Singh, who was apprehended on the spot and such confessional statement has no evidentiary value in the eye of law as per Section 25 of the Indian Evidence Act, 1872, which has been taken in police custody. Nothing has been recovered from the conscious possession of the petitioner. Petitioner was passenger and he



was unaware of the fact that the driver of the *Tempo* was carrying illicit liquor. Petitioner is not involved either in manufacturing or in trade of illicit liquor, which is prohibited in the State of Bihar. I am of the opinion that petitioner has, *prima facie*, made out a case to be released on pre-arrest bail.

7. The petitioner, above named, is directed to be released on pre-arrest bail, in the event of his arrest or surrender before the Court below within a period of four weeks from today, on furnishing bail bond of Rs. 50,000/- (Rupees Fifty Thousand) with two sureties of the like amount each to the satisfaction of learned 2nd Exclusive Special Excise Judge, Saran, Chapra, in connection with Sonapur P.S. Case No. 615 of 2023, subject to the condition as laid down under Section 438(2) of the Cr.P.C.

8. **The Court below is 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.**

(Purnendu Singh, J)

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