

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.69014 of 2023

Arising Out of PS. Case No.-52 Year-2020 Thana- KALER District- Jehanabad

SURENDRA SINGH Son of Digvijay Singh R/o Vill - Dugul, P.S. - Kasma,
Distt. - Aurangabad, Bihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mrs. Nivedita Nirvikar, Adv. Mr. Arya Achint, Adv.
For the Opposite Party/s :		Mr. Ahmad Ali, APP

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

2 01-11-2023 1. Heard learned counsel for the Petitioner and
learned APP for the State

2. Petitioner apprehends his arrest in connection with
Kaler P.S. Case No. 52 of 2020 dated 30.10.2020 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, though the instant matter relates to the recovery of
huge quantity of spirit from a truck but as per the FIR, the
petitioner is not stated to have been arrested from the said truck
and it's driver and co-driver are stated to have been arrested
when the recovery of spirit which was kept beneath stone chips



(Gitti) was made and the person apprehended, disclosed the petitioner's role as being involved in loading of the alleged spirit in the said truck and merely on that basis petitioner has been implicated in this matter but the petitioner has no concern with the alleged truck and the seized spirit which is an admitted position and in respect of petitioner's involvement the prosecution is mainly relying upon the statement of driver and co-driver which is not admissible and moreover, as per the said statement one namely, Bajrangi Singh is stated to be the owner of the alleged vehicle and spirit and the petitioner has been implicated mainly on account of being involved in loading of the alleged spirit in the said truck and accordingly, the alleged offence of Excise Act under which the FIR has been registered, does not attract against the petitioner prima-facie, hence his prayer for anticipatory bail is maintainable.

4. Learned APP appearing for the State has opposed the prayer for bail of the petitioner but fairly accepted that he has been implicated in this case mainly on account of the detail of his mobile number given by the co-accused persons who were apprehended with the alleged spirit.

5. Considering the above submissions and mainly the facts that the petitioner is not named in the FIR and mainly on



account of the disclosure of his mobile number made by the driver and co-driver who were arrested with the alleged spirit, he has been implicated in the present case, in my opinion, in the said circumstance the petitioner's prayer for anticipatory bail is maintainable as the alleged offence of the FIR does not prima-facie attract against the petitioner. Accordingly, let the petitioner named-above, in the event of his arrest/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/-(Ten Thousand) with two sureties of the like amount each to the satisfaction of the Court concerned in connection with Kaler P.S. Case No. 52 of 2020, subject to the conditions laid down under Section 438(2) of the Cr.P.C.

(Shailendra Singh, J)

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