

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.74257 of 2022

Arising Out of PS. Case No.-260 Year-2019 Thana- MITHANPURA District- Muzaffarpur

MD. KAIS ALAM, Gender-Male, aged about 35 years, Son of Md. Jamalludin, R/M Haji Gali Mithanpura, P.S- Mushahari, Dist- Muzaffarpur.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner : Mr. Satyendra Narayan Singh, Advocate
For the Opposite Party : Mrs. Shaheen Begum, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 21-04-2023 Learned counsel for the petitioner is directed to remove the defect(s), as pointed out by the office notes dated 22.12.2022, within a period of four weeks.

Heard learned counsel for the petitioner and learned A.P.P. for the State.

The petitioner is apprehending his arrest in connection with Mithanpura P.S. Case No. 260 of 2019 for the offence registered under Sections 414/34 of the I.P.C. and Sections 30(a), 32(ii), 38(ii) and 41(i) of the Bihar Prohibition and Excise (Amendment) Act, 2018.

The prosecution story, in brief, is that total 4595.040 liters wine is said to have been recovered from the Truck in question. It is also alleged that from the place of



occurrence, Tata Sumo Gold, two Motorcycles and one Scooty were also recovered.

It has been submitted by learned counsel for the petitioner that the petitioner has got no criminal antecedent. He has falsely been implicated in the present case. There is no allegation of tampering with the witnesses alleged against the petitioner. It is alleged that total 4595.040 liters wine is recovered from the Truck in question. The Truck in question does not belong to the petitioner. The petitioner is not named in the F.I.R. The name of the petitioner has transpired in the present case on the basis of seized Scooty. The petitioner is alleged to be the owner of the said Scooty. The said Scooty was given by the petitioner to his co-villager for his personal use. Except for this, there is no other substantive evidence to suggest the implication of the petitioner in this case. Nothing incriminating has been recovered from the conscious possession of the petitioner. The petitioner had no knowledge regarding the alleged incident. There is no compliance of Section 100 Cr. P.C. Learned counsel for the petitioner has placed reliance upon the order dated 13.04.2022 passed by the Hon'ble Supreme



Court in *Criminal Appeal No. 626 of 2022, arising out of SLP (Crl.) No. 3005 of 2022 (Sweta Kumari-Versus-The State of Bihar)*.

On behalf of the State, it is submitted that the petitioner is named in the F.I.R/ Complaint Case.

Considering the aforesaid facts and circumstances, the petitioner, above named, in the event of arrest/surrender before the learned court below within a period of twelve weeks from today, be released on anticipatory bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand Only) with two sureties of the like amount each to the satisfaction of the learned Special Judge, Excise Court-1, Muzaffarpur, in connection with Mithanpura P.S. Case No. 260 of 2019, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Sudhir Singh, J)

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