

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.74837 of 2022

Arising Out of PS. Case No.-795 Year-2019 Thana- AHIYAPUR District- Muzaffarpur

SHIV PRAKASH @ SHIV PRAKASH KUMAR @ OM PRAKASH @
CHHOTU @ PRAKASH KUMAR, Male, aged about 26 years, S/o Uma
Shankar Prakash Kumar, R/v- Ishwarpatti @ Eswarpatti, P.S.- Dumra,
District- Muzaffarpur.

... .. Petitioner

Versus

The State Of Bihar

... .. Opposite Party

Appearance :

For the Petitioner : Mr. Mani Bhushan Kumar, Advocate
For the Opposite Party : Mr. Sanjay Kumar, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 21-04-2023 Heard learned counsel for the petitioner and
learned A.P.P. for the State.

The petitioner is apprehending his arrest in
connection with Ahiyapur P.S. Case No. 795 of 2019
registered for the offence under Sections 272, 273, 414/34 of
the I.P.C. and Sections 30(a), 30, 36 and 48 of the Bihar
Prohibition and Excise(Amendment) Act, 2018.

Earlier anticipatory bail application of the
petitioner was rejected vide Cr. Misc. No. 70145 of 2019
under order dated 15.11.2019 passed by the then Co-



ordinate Bench of this Court.

This is second anticipatory bail application filed on behalf of the petitioner.

The prosecution case in brief, is that 137.340 liters wine is said to have been recovered from the Truck and 116.250 liters wine is said to have been recovered from the *i-20* car in question.

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 137.340 liters wine is recovered from the Truck and 116.250 liters wine is recovered from the *i-20* car in question. The Truck in question does not belong to the petitioner. The name of the petitioner has transpired in the present case on the basis of seized *i-20* car. The petitioner is alleged to be the owner of the said *i-20* car. The said car is run as a public carrier. The petitioner had no knowledge regarding the nature of goods kept in the *i-20* car in question. 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. 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 fact that earlier anticipatory bail application of the petitioner was rejected by the then another Co-ordinate Bench of this Court, I am not inclined to grant anticipatory bail to the petitioner. The same is rejected in connection with Ahiyapur P.S. Case No. 795 of 2019, pending in the court of learned Special Judge, Excise Act, Muzaffarpur.

If the petitioner surrenders in the learned court below and prays for regular bail, the same shall be considered and disposed of by the learned court below preferably on the same day on its own merit without being



prejudiced by this order of the Court.

(Sudhir Singh, J)

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