

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.70004 of 2023

Arising Out of PS. Case No.-433 Year-2023 Thana- ROSERA District- Samastipur

Ashish Kumar Choudhary son of Ramesh Kumar Choudhary, Village-
Ballipur Prashuram, W.No-8, PS- Khanpur Dist- Samastipur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ghanshyam Choudhary, Advocate

For the Opposite Party/s : Ms.Meena Singh, APP

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 01-11-2023 Heard Mr. Ghanshyam Choudhary, learned counsel
appearing on behalf of the petitioner and Ms. Meena Singh,
learned APP for the State.

2. Petitioner seeks pre-arrest bail in connection with
Rosera P.S.Case No.433 of 2023, GR 17231 of 2023, registered
for the offences punishable under Sections 272 and 273 of the
IPC and Section 30(a) of Bihar Excise (Amendment) Act, 2018.

3. Prosecution story in brief is that on secret
information, the police raided and seized 818.160 ltr. english
wine from a *Tanklorry* bearing Registration No.UP38T6974 but
the petitioner and other accused persons fled away taking
advantage of the darkness.

4. Learned counsel appearing on behalf of the
petitioner submits that the petitioner was near the place of



occurrence, as such he has been made accused only on the basis of certain conversation made by the petitioner with the other co-accused persons through his personal mobile phone bearing No.7546909662. Petitioner has clean antecedent.

5. Learned counsel further submits that the petitioner has given instruction that he was unaware of the fact that the persons with whom he has made telephonic call are anti-social elements and he is repenting to have had relationship with such persons; at the same time, he realized that he had fallen in bad company. Now, he has realized his wrong deed and willingly informed that he will donate a sum of Rs.80,000/- (Eighty Thousand) in the Prime Minister National Relief Fund (PMNRF) bearing Account No.1226769846 (Central Bank of India).

6. Learned APP for the State vehemently opposed the prayer for grant of pre-arrest bail to the petitioner on the ground of complicity of the petitioner in the said smuggling of the illicit liquor, as after consuming the liquor, several poor people have died in the State of Bihar. He further submits that the petitioner has not stated in clear words as to whether for what purpose, he was in talking terms with the co-accused, who were available at the place of occurrence, while the liquor was being unloaded. Involvement of the petitioner in such heinous crime is against



the society, as such the petitioner does not deserve to be released on bail.

7. Having considered the rival submissions made on behalf of the parties as well as the fact that in the State of Bihar, the Government has failed to implement the prohibition of illicit liquor and due to negligence of the police officials and the excise department and not because of the petitioner, the tragedy of death had happened in the State of Bihar. In paragraph no.3 of the petition, it has been pleaded that the petitioner bears clean antecedent and on the basis of mobile call records, suspicion has been made that the petitioner was involved in smuggling of the illicit liquor. The learned District court is directed to call for the report from the District Transport Officer with respect to the owner of the vehicle bearing Registration No.UP38T6974. In case, it is found that the registration number of the vehicle is genuine and the said vehicle is owned by any other person, the petitioner is directed to be released on pre-arrest bail in connection with Rosera P.S.Case No.433 of 2023, subject to conditions as laid down under Section 438(2) of the Cr.P.C. and in case, it is found that the registration number of the said vehicle is tampered, in that case, complicity of the petitioner in smuggling of the illicit liquor can not be denied.



8. With the above observation/direction, the present
bail application stands disposed of.

(Purnendu Singh, J)

chn/-

U			
---	--	--	--

