

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71431 of 2023

Arising Out of PS. Case No.-405 Year-2022 Thana- RIVILGANJ District- Saran

Ashwani Kumar Son of Baijnath Sah Village- Shambhu Patti, PS-
Karpurigram, Distt- Samastipur.

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Babu Nandan Prasad

For the Opposite Party/s : Mr.Ahmad Ali

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

2 03-11-2023 Heard learned counsel for the petitioner and
learned A.P.P. for the State.

2. The petitioner is apprehending his arrest in connection with Rivilganj P.S. Case No. 405/2022 registered for the offences punishable under Sections 467, 468, 471/34 of the Indian Penal Code and 30 (a), 32, 41 (1) of the Bihar Prohibition and Excise (Amendment) Act, 2016.

3. As per prosecution case, there is alleged recovery of 4100.760 liters foreign liquor from Truck no.RJ 11GA5245 in question and apprehended driver Lekhmaram of the said truck disclosed the name of present petitioner.

4. Learned counsel for the petitioner submits that petitioner is innocent and has committed no offence as alleged in the FIR and he has falsely been implicated in this case. The



petitioner bears criminal antecedent of two cases in which he is on anticipatory bail. Nothing has been recovered from the conscious possession of the petitioner. He further submits that the petitioner was not apprehended on the spot. He further submits that the petitioner was neither owner nor driver of the said truck. He further submits that it has not been mentioned in F.I.R. that whether the mobile no. 9267908313 has been used or not in the alleged occurrence. He further submits that except mobile no.9267908313 disclosed by co-accused Lekhmaram, there is nothing on record to demonstrate the complicity of the present petitioner with the alleged occurrence. He further submits that on similar and identical allegation, co-accused Sanjeev Kumar has already been granted anticipatory bail by the co-ordinate Bench of this Court vide Cr. Misc. No.66968/2023 and on the principle of parity, the present petitioner also deserves same treatment. He further submits that in the light of the aforesaid facts and circumstances of the case, no case is made out against the petitioner under the aforesaid sections.

5. The learned A.P.P. for the State opposes the prayer for anticipatory bail of the petitioner.

6. Considering the facts and circumstances of the case, co-accused has already been granted anticipatory bail,



argument advanced on behalf of both sides and also taking into consideration the material available on record, the petitioner above-named, in the event of his arrest or surrender before the learned trial court within a period of six weeks from today, be released on anticipatory bail on furnishing bail bond of Rs. 10,000/- (rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned 2nd Exclusive Special Excise Judge, Saran at Chapra in connection with Rivilganj P.S. Case No. 405/2022, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

7. The application stands allowed.

(Alok Kumar Pandey, J)

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