

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.74621 of 2023

Arising Out of PS. Case No.-411 Year-2022 Thana- ARA MUFFSIL District- Bhojpur

BHIM KUMAR @ SMARAT S/O- PRAMOD RAI R/O- VILLAGE- BARA
BASANTPUR, P.S.- ARA MUFFASIL, DIST.- BHOJPUR

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR, PATNA

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sarveshwar Tiwary

For the Opposite Party/s : Mr.Narsingh Tanti

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

2 23-11-2023 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. The petitioner seeks bail in connection with Ara Muffasil P.S. Case No. 411 of 2022 registered for the offences punishable under Sections 30(a) of the Bihar Prohibition and Excise Amendment Act.

3. As per prosecution case, there was alleged recovery of 250 litre country made liquor from the Tempo in question. Apprehended co-accused Raju Kumar and Md. Rustam disclosed that the alleged liquor was brought by hiring tempo on rent at the behest of the petitioner.

4. Learned counsel for the petitioner submits that petitioner is in custody since 01.09.2023. Petitioner bears one criminal antecedent in which he is on anticipatory bail. Learned



counsel further submits that petitioner is not apprehended on spot. Nothing has been recovered from the conscious possession of the petitioner. Except disclosure of co-accused persons, there is nothing on record to demonstrate the complicity of the present petitioner with the alleged occurrence. Seizure list has not been made as per law. Neither the alleged liquor belong to the petitioner nor does the vehicle in question belong to him. Petitioner has nothing to do with the alleged occurrence. In the light of aforesaid facts and circumstances of the case, no case under the provisions of Bihar Excise and Amendment Act is made out against the petitioner.

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

6. Considering the facts and circumstances of the case as well as period of custody, petitioner is not apprehended on spot, argument advanced on behalf of the parties and also taking into consideration the material available on record, let the petitioner above named be released on 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 Exclusive Excise Court 1st, Bhojpur, Ara in connection with Ara Muffasil P.S. Case No. 411/2022, subject to following conditions:-



(i) One of the bailors shall be either father or mother or sister or brother or wife or the person who has sworn the affidavit in bail application.

(ii) Petitioner will co-operate in trial and will remain present on all dates and absence for two consecutive dates without appropriate permission would be a ground for cancellation of bail by the learned Trial court itself.

(iii) If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

(Alok Kumar Pandey, J)

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