

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.74188 of 2022

Arising Out of PS. Case No.-413 Year-2022 Thana- VAISHALI District- Vaishali

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ROHIT KUMAR @ MUNCHUN KUMAR Son of Dinanath Chaudhari @
Fudan Chaudhari Resident of Village and Post - Madarna, P.S. and District -
Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Dr. Bipin Chandra, Advocate

For the Opposite Party/s : Mr.Jagdhari Prasad, APP

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 17-04-2023 Heard learned counsel for the petitioner and the

learned APP for the State.

The petitioner is in judicial custody in connection
with Vaishali P.S. Case No. 413 of 2022 instituted under Section
30 (a) and 41(1) of Bihar Prohibition and Excise Act lodged on
21.10.2022 by the informant Manish Kumar Singh.

The prosecution story, in brief, is that on 20.10.2022,
the informant Manish Kumar Singh, S.1. of Vaishali Police
Station, during patrolling duty received confidential information
that accused (1) Ajay Kumar, (2) Rohit Kumar @ Munchun
(Petitioner) and (3) Vikky Kumar are dealing with illegal liquor.
One Ajay Kumar together with his both associates has brought
liquor on a Scorpio No. WB20G-2422 which has been parked in



Village- Madarna Ward No.4 and probably customer is awaited. The informant informed his superiors and reached at that place and saw three persons standing near said Scorpio who succeeded in escaping on seeing police team. Since there was late night, on one was present, the two female constable of patrolling team were made witnesses and thereafter the informant searched the Scorpio and recovered/seized 861.45 liters liquor. Accordingly, this case.

Learned counsel for the petitioner submits that a bare perusal of the FIR would show that the recovery of the foreign liquor from the Scorpio and it is not the case of the police that they were apprehended from the spot. It has further been submitted with the help of para-7 of the petition that the Scorpio does not belong to him and merely on the suspicion that there were three people standing outside who escaped on seeing the police party, the police came to know that he was one of them. In that background he is in custody since 18.11.2022 (as stated in para-9 of the petition). The last submission is that he do not have criminal antecedent.

Learned APP opposes the prayer stating that there is recovery of 861.45 liter of foreign liquor.

Considering the fact that admittedly the recovery is



from the Scorpio, the petitioner has not been apprehended from the spot , the Scorpio does not belong to him, he do not have criminal antecedent, is in custody since 18.11.2022 (as stated in para-9 of the petition), this Court is inclined to extend him privilege of bail. If, however, it is found that he do have criminal antecedent, the bail order shall become infructuous.

Let the petitioner be released on bail on furnishing bail bond of Rs.25,000/-(Rupees Twenty Five Thousand) with two sureties of the like amount each in connection with Vaishali P.S. Case No. 413 of 2022 to the satisfaction of learned Special Excise Court No.2, Vaishali at Hajipur , subject to following conditions:

(i) one of the bailor should be the family member of the petitioner who shall provide official document to show his/her bona fide;

(ii) the petitioner shall appear on each and every date before the Trial court and failure to do so for two consecutive dates without plausible reason will entail cancellation of his bail bond by the Trial court itself;

(iii) the petitioner shall appear before the concerned police station every fortnight for next six months to mark attendance;



(iv) the petitioner shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of the bail bonds;

(v) the petitioner shall desist from committing any criminal offence again failing which the State shall be at liberty to take steps for cancellation of the bail bonds.

(Rajiv Roy, J)

Prakash Narayan /-

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