

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.74694 of 2023

Arising Out of PS. Case No.-1199 Year-2023 Thana- Excise P.S. District- Darbhanga

SURESH MAHTO S/O PANCHLAL MAHTO VILLAGE- GOPALPUR,
WARD NO. 13, PS. HARLAKHI, DIST. MADHUBANI

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Jagjit Roshan

For the Opposite Party/s : Mr.Asha Devi

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
Excise Sadar P.S. Case No. 1199 of 2023 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 630 litre illicit nepali country made liquor from
XUV 500 car. Petitioner, being driver of the said car,
apprehended on spot.

4. Learned counsel for the petitioner submits that
petitioner is in custody since 13.09.2023. Petitioner bears no
criminal antecedent. Learned counsel further submits that time
of general diary entry is 10:45 and the seizure list was prepared



between 07:45 AM to 08:45 AM and arrest memo was prepared at 09:00 AM which clearly shows malafide intention of police to rope the present petitioner in the alleged occurrence. Nothing has been recovered from the conscious possession of the petitioner. Being the driver, petitioner has no knowledge about the alleged recovered liquor from the vehicle in question. Petitioner has nothing to do with the alleged occurrence. There is no compliance of Section 100 Cr.P.C. 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, keeping in view clean antecedent of the petitioner, 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 Special Judge 1, (Excise Act), Darbhanga in connection with Excise Sadar P.S. Case No. 1199/2023, 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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