

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8156 of 2024

Arising Out of PS. Case No.-183 Year-2023 Thana- CHANDAN District- Banka

MD. SAHAWAZ @ MD. SAHBAJ SON OF MD. SARIF RESIDENT OF
VILLAGE - LUTPADA, NEAR TOWER CHOWK WARD NO.-05, POLICE
STATION - DUMKA, DISTRICT - DUMKA

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Dipak Kumar

For the Opposite Party/s : Mr.Surendra Kumar

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

4 27-03-2024 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. The petitioner seeks bail in connection with Chandan P.S. Case No. 183 of 2023 (Special Excise Case No. 664 of 2023) registered for the offence punishable under Section 30(a) of Bihar Prohibition of Excise Act, 2018.

3. As per prosecution case, 1616.22 litre illicit liquor was recovered from the pickup van in question which was being driven by the petitioner and he alongwith others was apprehended on the spot.

4. Learned counsel for the petitioner submits that petitioner is quite innocent and has not committed any offence as alleged in the FIR. He further submits that petitioner is not



owner of the vehicle in question. Petitioner is merely driver of the said vehicle and he has to follow the instruction of his owner to earn the livelihood. No incriminating article has been recovered from conscious possession of the petitioner. Petitioner has no knowledge regarding the alleged liquor that has been kept in the vehicle in question. Petitioner is in custody since 17.11.2023 and bears no criminal antecedent. Learned counsel orally submits that charge sheet has been submitted in the case and there is no likelihood of tampering with the prosecution evidence. There is no compliance of Section 100 of the Cr.P.C. He further submits that on similar and identical allegation, co-accused Arun Kumar Yadav @ Arun Kr. Yadav and Hari Yadav have already been granted bail by this court vide Cr. Misc. No. 5665 of 2024 and on the principle of parity petitioner deserves bail.

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

6. Considering the facts and circumstances of the case, period of custody, keeping in view clean antecedent of petitioner, co-accused on similar and identical allegation has already been granted bail, argument advanced on behalf of both sides 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 Additional Sessions Judge-II, Banka in connection with Chandan P.S. Case No. 183 of 2023 (Special Excise Case No. 664 of 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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