

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13915 of 2024

Arising Out of PS. Case No.-441 Year-2023 Thana- Excise P.S. District- Samastipur

Sharwan Kumar Son of Dinesh Roy Resident of Vill Raipur P.S Warisnagar
District Samastipur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Bijay Bhushan Prasad, Advocate

For the Opposite Party/s : Mr.Lakshmi Kant Sharma, APP

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 01-05-2024 1. Heard learned counsel for the petitioner as well as
learned APP for the State.

2. The petitioner seeks bail in anticipation of his arrest in a case registered for the offences punishable under Section 30(a) of the Bihar Prohibition and Excise Act, 2018 in connection with Excise Sadar P.S. Case No.441 of 2023.

3. The learned counsel for the petitioner submits that the petitioner has antecedent of one case but inadvertently at para-3 it has been recorded that petitioner is a person with clean antecedent. It is next submitted that allegation is of recovery of 3.375 liters of liquor from a bag of co-accused Dinesh Rai and 4.5 liters of liquor from the hut of the petitioner.

4. It is next submitted that petitioner was not arrested from the spot as such nothing was recovered from his conscious possession and after amendment in the Excise Act in the year



2018 the concept of deemed possession and presumed offender has been done away with it. It is also submitted that it is not a hut, rather a house where several members of the family resides. It is also submitted that it absolutely does not stand to reason that on what basis the informant alleges that the liquor was kept in the house by the petitioner, which cast an aspersion on the case of the prosecution.

5. The learned APP for the State opposes the anticipatory bail application.

6. Considering the submissions made by the learned counsel for the petitioner, the petitioner above-named, in the event of his arrest or surrender before the learned Court below within a period of six weeks, is directed to be released on bail on his furnishing bail-bonds in the sum of Rs.5000/- (Rupees Five Thousand) with two sureties of the like amount each to the satisfaction of the learned Special Judge, Excise-02, Samastipur in connection with Excise Sadar P.S. Case No.441 of 2023, subject to the conditions laid down under Section 438(2) of the Cr.P.C.

7. It is made clear that the learned trial court before accepting the bail bonds of the petitioner shall verify the criminal antecedent of the petitioner and in the event, if it is



found that petitioner has antecedent of more than one case, in that event, the present anticipatory bail order shall not be given effect.

8. The application stands allowed.

(Satyavrat Verma, J)

Prakash Narayan

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