

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22334 of 2024

Arising Out of PS. Case No.-10 Year-2024 Thana- RAFIGANJ District- Aurangabad

Bade Choudhary @ Jitendra Choudhary S/O Ratan Choudhary R/O Village-
Mae Bhuiya Bigha, P.S- Rafiganj, Distt.- Aurangabad.

... .. Petitioner/S

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ashok Singh

For the Opposite Party/s : Mr.Sanjay Kumar Pandey

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

- 2 29-03-2024 1. Heard learned counsel for the petitioner and
learned APP for the State.
2. The petitioner seeks bail in anticipation of his
arrest in a case registered for the offences punishable under
Sections 30(a) and 30(c) of the Excise Act.
3. The learned counsel for the petitioner submits that
the petitioner is a person with clean antecedent and the
allegation is of recovery of 120 litres of liquor from the hut of
the petitioner.
4. The learned counsel for the petitioner submits that
petitioner was not arrested from the spot, as such, nothing was
recovered from his conscious possession and after Amendment
in the Excise Act, 2018, the concept of deemed possession and
presumed offender has been done away with. It is also submitted



that the alleged recovery is not from a hut, but from a house, which is a joint family property and thus, cannot be alleged with certainty that it was the petitioner, who had kept the liquor in the house or the liquor kept in the house was within his knowledge and he came to be implicated at the instance of local villagers. It is next submitted that police in mechanical manner implicates either at the instance of Chaukidar or local villager, but then, does not disclose the name of the person, who disclosed the name of the petitioner in the F.I.R. It is also submitted that if the local persons were aware of the involvement of the petitioner in the occurrence, then why he did not inform the police prior to institution of the F.I.R., It is also submitted that petitioner came to be implicated at the instance of local people, but then, the name of the person, who disclosed the name of the petitioner is not disclosed in the F.I.R., which cast an aspersion on the case of the prosecution, when admittedly petitioner is a person with clean antecedent.

5. Learned A.P.P. opposes the 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.500/- (Rupees Five Hundred) with two sureties of the like amount each to the satisfaction of the learned Special Judge, Excise Court No.1, Aurangabad in connection with Rafiganj P. S. Case No.10 of 2024, subject to the conditions laid down under Section 438(2) of the Cr.P.C.

7. The application stands allowed.

(Satyavrat Verma, J)

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